



September 2016

Submission to the 3rd cycle of the UN Universal Periodic Review of the United Kingdom

1. This submission contains JUST FAIR's contribution to the 3rd cycle of the United Nations (UN) Universal Periodic Review (UPR) of the United Kingdom (UK). The document focuses on three human rights topics under JUST FAIR's scope of work, namely, a) the negative impact of austerity-led welfare reform, b) equality in relation to economic and social rights, and c) the status of economic and social rights in national legislation. JUST FAIR has also contributed to the Joint Civil Society Report coordinated by the British Institute of Human Rights.
2. Power over a number of policy areas related to economic and social rights has been devolved to authorities in Scotland, Wales and Northern Ireland since 1999. Unless otherwise indicated, this report focuses on the situation in England.
3. The Universal Declaration of Human Rights proclaims economic, social and cultural rights (Article 22) and recognises the right to an adequate standard of living (Article 25). The UK has ratified a number of international treaties that protect economic and social rights. This submission takes the International Covenant on Economic, Social and Cultural Rights (ICESCR) as the main reference, which the UK ratified in 1976.

Just Fair

4. Registered as a charity since 2011, JUST FAIR **works to realise a fairer and more just society in the UK by monitoring and advocating economic and social rights**. JUST FAIR is committed to increasing public awareness of the law, in particular international human rights law, and the capability to use it. JUST FAIR is also devoted to the advancement of high-level thinking, training and

practice to ensure that economic and social rights are respected, protected and fulfilled.

5. JUST FAIR's core activities include monitoring economic and social rights in the UK, following up on the implementation of international human rights legal obligations, advocating better legal recognition and respect for economic and social rights, and enhancing public and civil society awareness of economic and social rights, via capacity building sessions, social media, conventional media and university events.
6. Between 2014 and 2016, JUST FAIR coordinated a consortium of more than 70 national organisations and local community groups working on social justice, welfare and human rights. On behalf of the Consortium, JUST FAIR submitted a [parallel report](#) and a [response to the list of issues](#) of the UN Committee on Economic, Social and Cultural Rights. These reports brought together the analysis of [four thematic reports](#) produced in 2014 and 2015:
 - a. *“Going Hungry? The Human Right to Food in the UK”*: Welfare reforms, benefit delays and the rising cost of living have pushed an unprecedented number of people into a state of hunger, malnutrition and food insecurity.
 - b. *“Dignity and Opportunity for All: Securing the rights of disable people in the austerity era”*: Analysis of the extent to which austerity-led policies meet the UK's international obligations to realise the rights of people with disabilities.
 - c. *“Protecting the Right to Housing in England: A Context of Crisis”*: The housing crisis in England in two of its starkest forms: homelessness, and the insecurity of tenure and lack of adequate housing in the private rental sector.
 - d. *“The Right to Health in the UK”*: Retrogression suffered by asylum seekers, undocumented migrants and people with mental health conditions.

Welfare reform, poverty and social exclusion

7. In the last UPR cycle, the UK received two **recommendations from Nepal (No. 42) and Vietnam (No. 101)** to make sure that the national welfare system is well equipped to tackle poverty and unemployment, especially among most vulnerable groups. ¹ In its 2014 mid-term report, the UK said that both

¹ [Report of the Working Group on the Universal Periodic Review: United Kingdom of Great Britain and Northern Ireland](#), 6 July 2012, UN doc: A/HRC/21/9.

recommendations enjoyed the support of the government.² However, empirical research shows the **UK has not met these recommendations**.

8. The UK has made remarkable savings at the expense of welfare expenditure since 2010. Total spending on UK social security and tax credits will be £218.4 billion in 2016-17, 28.3% of total managed expenditure; measures announced since 2010 will save around £26 billion in the same year, roughly 10% of what welfare spending might otherwise have been; the greatest savings are from tax credits, £4 billion lower, and child benefits, 22% lower.³
9. On the other hand, independent research shows that a large number of households will see their level of enjoyment of the rights to social security and adequate standard of living diminished (Articles 9 and 11 ICESCR). The Resolution Foundation has estimated that 3 million working families will no longer be entitled to any in-work support; and a further 1.2 million are set to receive the so-called universal credit, but they will be an average of £41 per week worse off.⁴
10. Delays and suspensions of welfare benefits are two of the biggest causes of social exclusion and referral to food banks.⁵ The number of food banks has increased substantially in recent years.⁶ The Church Action on Poverty estimated in 2013 that over 500,000 people were reliant on food aid.⁷ The number of 3-day emergency food supplies given by Trussell Trust has exceeded 1.1 million (2015-2016), up from 26,000 in 2008-2009.⁸
11. In 2016, the UN Committee on Economic, Social and Cultural Rights called on the UK to “restore the link between the rates of State benefits and the costs of living and guarantee that all social benefits provide a level of benefit sufficient to ensure an adequate standard of living, including access to health care, adequate housing and food”; the CESCR also expressed concerns about the overreliance on food banks and recommended the government to “develop a comprehensive national strategy for the protection and promotion of the right to adequate food”.⁹ The Committee on the Rights of the Child requested the UK to collect data on malnutrition and other issues and to assess the effectiveness of its policies.¹⁰
12. Recommendation 1: Ensure that the welfare system is adequately funded and structured to protect the human right to social security and all other human rights, particularly for most vulnerable groups.

² [United Kingdom Mid Term Report 2014](#), pp. 45 and 133.

³ House of Commons Library, [Welfare savings 2010-11 to 2020-21](#), 26 July 2016.

⁴ Resolution Foundation, [Universal Challenge: making a success of Universal Credit](#), May 2016.

⁵ [Trussell Trust](#) website

⁶ House of Commons Library, [Food Banks and food poverty](#), 9 April 2014.

⁷ Church Action on Poverty, [Walking the Breadline](#), May 2013.

⁸ The Trussell Trust, [Foodbank use remains at record high](#), 15 April 2016.

⁹ CESCR, [Concluding Observations: UK](#), 14 July 2016, UN doc: E/C.12/GBR/CO/6, para. 41 and 53-54.

¹⁰ CRC, [Concluding Observations: UK](#), 12 July 2016, UN doc: CRC/C/GBR/CO/5, para. 66-67.

13. Recommendation 2: Draw up a national right to food strategy and action plan, including an assessment of the impact of past and current policies and of the level of enjoyment of this right.

Equality and economic and social rights

14. The right to equality and non-discrimination, proclaimed in Article 2(2) ICESCR, is recognised in Section 1 of the Equality Act 2010. This Article sets out the duty of certain public authorities to “have due regard to the desirability of exercising [their functions] in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage”. However, Section 1 has not yet been enacted. In November 2010, the then Home Secretary, and now Prime Minister, Theresa May announced that the “socio-economic duty” would be “scrapped”.¹¹ She said:

“Equality has become a dirty word because it has come to be associated with the worst aspects of pointless political correctness and social engineering. Just look at the socio-economic duty. In reality, it would have been just another bureaucratic box to be ticked. It would have meant more time filling in forms and less time focusing on policies that will make a real difference to people’s life chances. We need to move away from this old approach and make equalities work for everyone. We need equalities policy to work with the grain of human nature, not against it. Legislation on its own is not enough. Government will no longer dictate how people should behave. Instead we will put in place an architecture to support business and wider society to do the right thing.”

15. In January 2015, Kerry McCarthy MP (Labour, Bristol East) asked the government to reconsider its position. The Under-Secretary of State for Women and Equalities responded that it was not the government’s intention to do so at that moment.¹²
16. After years of austerity-led policies, there is a growing concern for socioeconomic inequality in the UK. On the one hand, average income seems to be getting back to pre-crisis levels thanks to growing employment and longer working hours by poorer workers.¹³ On the other hand, about 70% of families had a flat or falling income between 2005 and 2014,¹⁴ and real wages fell by 10.4% between 2007

¹¹ “Socio-economic duty to be scrapped”, 17 November 2010: <https://www.gov.uk/government/news/socio-economic-duty-to-be-scrapped--2>

¹² House of Commons Hansard, [15 January 2015, Volume 590](#).

¹³ Institute for Fiscal Studies, [Living standards, poverty and inequality in the UK: 2016](#), July 2016.

¹⁴ McKinsey Global Institute, [Poorer than their parents? Flat or falling incomes in advanced economies](#), July 2016.

and 2015, one of the worst rates in OECD countries.¹⁵ The richest 10% of the UK population owns over half of the country's total wealth, and the richest 1% owns more than 20 times more wealth than the poorest 20% of the population.¹⁶ There are also deep territorial unbalances between South East England and the rest of the country in terms of public investment.¹⁷ More than 76% of the people believe there is a wide divide between social classes, and the share of people who disagree with the idea that the government should spend more money on welfare for the poor went down from 43 to 31% between 2009 and 2015.¹⁸

17. In their respective Concluding Observations, both the Committee on the Elimination of Discrimination Against Women and the Committee on Economic, Social and Cultural Rights expressed concerns that Section 1 and some other provisions of the Equality Act are not yet in force.¹⁹
18. The Committee on Economic, Social and Cultural Rights recently reminded States that they must ensure that the rights of the most disadvantaged people are not disproportionately affected by austerity-led policies, which must always be temporary and non-discriminatory, and ought to mitigate inequalities and respect the minimum core content of economic and social rights. This imposes an impact assessment duty on public authorities.²⁰
19. In the second UPR cycle, the UK received a series of recommendations in relation to equality. In particular, **Uzbekistan recommended** to ensure “genuine equality in accordance with the recommendations of the Committee on Economic, Social and Cultural Rights” (**No. 39**), and **Spain recommended** to “strengthen measures aimed at reducing serious inequalities in access to health, education and employment, which still exist despite the adoption of the Equality Act” (**No. 102**).²¹ **The UK rejected the recommendation from Spain, but accepted the one from Uzbekistan.** In both instances, the government assured that the Equality Act 2010 provided the necessary legal framework to comply with the ICESCR and all other international human rights obligations on equality and non-discrimination.²² However, this will **only be possible if the government reverts the position it has maintained since 2010 in relation to Section 1 of the Equality Act.**

¹⁵ TUC, “[UK workers experienced sharpest wage fall of any leading economy](#)”, 27 July 2016.

¹⁶ Oxfam GB, “[How to Close Great Britain's Great Divide](#)”, 13 September 2016.

¹⁷ [IPPR North](#) 2016.

¹⁸ [British Social Attitudes Survey](#) 2016.

¹⁹ CEDAW Committee, [Concluding Observations: UK](#), 30 July 2013, UN doc. CEDAW/C/GBR/CO/7, para. 16-17; CESCR, [Concluding Observations: UK](#), 2016, para. 22-23.

²⁰ CESCR, “[Public debt, austerity measures and the ICESCR](#)”, 24 June 2016, UN doc: E/C.12/2016/1, para. 4.

²¹ [Report of the Working Group on the Universal Periodic Review: United Kingdom of Great Britain and Northern Ireland](#), 2012.

²² [United Kingdom Mid Term Report 2014](#), pp. 38 and 135.

20. Recommendation 3: Enact Section 1 of the Equality Act 2010, on the public sector duty regarding socio-economic inequalities.

Status of economic and social rights in national law

21. In contrast with an increasing number of States, **the UK does not afford domestic recognition to the rights contained in the ICESCR, which means that neither its general principles nor its substantive provisions are directly enforceable in UK courts.**
22. The UK has not signed or ratified the 2008 Optional Protocol to the ICESCR, which provides for an individual complaints mechanism, or the 1996 Revised European Social Charter or the 1995 Additional Protocol to the European Social Charter, which encompass a collective complaints mechanism. In the last UPR cycle, **Spain recommended** the UK to ratify the Optional Protocol to the ICESCR (**No. 26**).²³ The **UK rejected** this recommendation because the government “remains unclear about the practical benefits of the right to individual petition to the UN”.²⁴
23. In its 2014 state report to the Committee on Economic, Social and Cultural Rights, the UK government argued that “there is no provision in the ICESCR that requires State parties to incorporate the Covenant into domestic law or to accord to it a specific status in domestic law. The UK Government therefore continues to consider that its method of implementation of the ICESCR, through appropriate legislation and administrative measures, ensures the fulfilment of its obligations under the Covenant”.²⁵ In the dialogue with the Committee on 15 June 2016, the government delegation reiterated that the UK “tended not to incorporate international obligations such as those enshrined in the Covenant into the domestic legal order”.²⁶
24. However, the UK’s position is not in line with most protective approaches to international human rights law. Although not exhaustive of the obligations of State parties, the adoption of legislative measures is indispensable for the full implementation of the ICESCR. Countries must make use of “all appropriate means, including particularly the adoption of legislative measures” (Article 2(1) ICESCR).²⁷ As noted by the Committee on Economic, Social and Cultural Rights, “a State party seeking to justify its failure to provide any domestic legal remedies for violations of economic, social and cultural rights would need to show either

²³ [Report of the Working Group on the Universal Periodic Review: United Kingdom of Great Britain and Northern Ireland](#), 2012.

²⁴ [United Kingdom Mid Term Report 2014](#), pp. 9 and 28.

²⁵ [UK report to the CESCR](#), 25 September 2014, UN doc: E/C.12/GBR/6, para. 11.

²⁶ CESCR, Summary records of the 36th meeting, 21 June 2016, UN doc: E/C.12/2016/SR.36, para. 2-3.

²⁷ CESCR, [General Comment No. 3: The nature of States parties’ obligations](#), 1991, UN doc: E/1991/23, annex III at 86, para. 3-4.

that such remedies are not ‘appropriate means’ within the terms of article 2.1 of the Covenant or that, in view of the other means used, they are unnecessary. It will be difficult to show this and the Committee considers that, in many cases, the other ‘means’ used could be rendered ineffective if they are not reinforced or complemented by judicial remedies”.²⁸

25. In line with its interpretation of States’ obligations vis-à-vis the ICESCR, in 2016 the Committee on Economic, Social and Cultural Rights urged the UK “to fully incorporate the Covenant rights into its domestic legal order and ensure that victims of violations of economic, social and cultural rights have full access to effective legal remedies”.²⁹
26. Recommendation 4: Recognise economic and social rights as human rights and give them full implementation in national law, enabling individuals to seek enforcement of their rights before national courts and tribunals.
27. Recommendation 5: Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

Summary of recommendations

- Ensure that the welfare system is adequately funded and structured to protect the human right to social security and all other human rights, particularly for most vulnerable groups.
- Draw up a national right to food strategy and action plan, including an assessment of the impact of past and current policies and of the level of enjoyment of this right.
- Enact Section 1 of the Equality Act 2010, on the public sector duty regarding socio-economic inequalities.
- Recognise economic and social rights as human rights and give them full implementation in national law, enabling individuals to seek enforcement of their rights before national courts and tribunals.
- Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

²⁸ CESCR, [General Comment No. 9: The domestic application of the Covenant](#), 1998, UN doc: E/C.12/1998/24, para. 3.

²⁹ CESCR, [Concluding Observations: UK](#), 2016, para. 5-6.