

Minimum Core Obligations in Scotland

By Legal Policy Development Officer, Luis Felipe Yanes

March 2023

Economic, social and cultural (ESC) rights are human rights that are necessary to live a dignified life free from fear and want. They include:

- Economic rights, such as social security and workers' rights
- Social rights, such as health, education, housing, food, clothing, water
- Cultural rights, such as the right to take part in cultural life, and the right to benefit from cultural and scientific progress

ESC rights are protected under the [International Covenant on Economic, Social and Cultural Rights \(ICESCR\)](#). This Covenant is an international law that more than 170 countries have committed to complying and the UK has been one of those countries since 1976.

ICESCR specifies that ESC rights are to be 'progressively realised'. This means that all countries should aim to improve the enjoyment of ESC rights over time, using the maximum available resources. Countries need to move as fast and effectively as possible, taking concrete steps and using all reasonable resources they have at their disposal, including taxation, to improve the enjoyment of ESC rights. ICESCR also recognises that resources are not infinite, and that some issues might take countries time to fix.

Despite the above, some obligations are defined as so important that they need to be complied with immediately, and are not subject to progressive realisation. These immediate obligations are called minimum core obligations (MCOs).

What are minimum core obligations?

Minimum core obligations are obligations which a country needs to comply with at all times and in all circumstances, regardless of their resources or the overall conditions of a country. If they are not complied with a country is not meeting its international obligations.

There might be some extreme circumstances in which a country is able to justify that it cannot comply with its MCOs. However, that country would have to demonstrate that it tried everything possible to comply and was not able to do so.

There are several definitions of minimum core obligations, which are used by different international bodies and countries. For example:

The United Nations Committee on ESC rights considers that MCOs are the minimum essential levels of each right. If these obligations are not met, then the purpose of the ICESCR disappears.

Some consider that MCOs are the set of minimum essential guarantees or entitlements that are necessary to be able to survive and if a country does not guarantee these obligations then people might die.

Some countries consider that MCOs are the obligations that guarantee that the minimum essential levels for a person to live a dignified life are met.

The obligations

As the UK is obliged to comply with the ICESCR, it is important to know exactly what all the MCOs that the UN Committee on ESC rights has determined are.

Some examples of these obligations include:

- Ensure that no significant number of people are deprived of essential food
- Ensure non-discriminatory access to water
- Ensure access to basic shelter

- Provide essential drugs (as defined by the World Health Organisation)
- Provide free primary education for all
- Adopt and implement a national public health strategy

Although the UN Committee has not detailed the MCOs of all rights, after reviewing the UN Committee's General Comments and Statements, [we have compiled all of them here](#).

Are they being complied with?

In its recent [report](#) to the UN Committee, we expressed our concern about the satisfaction of some MCOs. Particularly, the Commission is concerned over high levels of food insecurity and homelessness in Scotland.

The lack of sufficient available data makes it difficult to determine if Scotland is actually complying with minimum core obligations. There is also not sufficient information to determine if the Government and other public authorities are prioritising their minimum core obligations, above other issues.

What's next for Scotland?

Scotland is currently looking to strengthen its human rights laws to ensure that ESC rights are protected in Scots law. This would guarantee that when rights are not protected those responsible can be held to account. It would also ensure that human rights are used to guide other laws, policies, and budgets. It would help the Scottish Government and local authorities to know how to prioritise their efforts and resources, ensuring the most marginalised people in our society are supported.

Scotland has an opportunity to become a world-leading country in the protection of minimum core obligations. The Commission recommends that this could be achieved by consulting with people with lived experience, technical experts and policy makers. And by defining in law what the MCOs are for Scottish authorities, ensuring accountability when those obligations aren't met.

The Commission has set out all the key legal features that the new human rights bill would need to have to ensure strong, world-leading human rights legislation. Read them [here](#).

Ensuring that MCOs are met must be a priority for everyone in Scotland. In the meantime, the government and public bodies in Scotland need to ensure they are complying with international obligations and protecting the most disadvantaged in our society.

To learn more on minimum core obligations, watch our evidence session to the Equalities, Human Rights and Civil Justice Committee of the Scottish Parliament [here](#).

ends