

Fuel Poverty in the United Kingdom

Shinya Ito

2023-02-17T08:00:34

The United Kingdom of Great Britain and Northern Ireland (UK) is in [a cost of living crisis](#). Among the most pressing problems is fuel poverty. People are increasingly having difficulties in heating their homes to an adequate temperature for such reasons as low income and high fuel prices. As of [May 2022](#), “around 13% of households in England were classed as fuel poor, 25% in Scotland, 12% in Wales, and 18% in Northern Ireland.”

Indeed, recent surges in energy prices are alarming. After nearly doubling between October 2020 (£1,042) and April 2022 (£1,971), the average annual energy cost for a typical UK household [had been estimated](#) to climb to £3,549 in October 2022, before reaching £6,620 in April 2023. In September 2022, the British government announced [the Energy Price Guarantee](#), which originally capped the average annual household energy cost to be around £2,500 for two years starting from October 2022. However, the scheme was modified quickly in November 2022, and the average annual household energy cost will [rise to £3,000 in April 2023](#). The impact of increased energy bills has been devastating, especially to the [poorest households](#) who [spend higher proportions](#) (23%) of their income on food and energy than average households (16%).

This post argues that UK fuel poverty is a significant issue in terms of the right to adequate housing and its minimum core obligation under [Article 11 \(1\)](#) of the International Covenant on Economic, Social and Cultural Rights (ICESCR). The UK is one of 171 State parties to this universal human rights treaty. Under Article 2 (1), each State party is required to “take steps, [...] to the maximum of its available resources, with a view to achieving progressively the full reali[s]ation of [ICESCR] rights [...] by all appropriate means”. In this connection, this post discusses what should be expected from the upcoming assessment of the UK report by the [Committee](#) on Economic, Social and Cultural Rights (CESCR) – the Covenant’s monitoring body.

Fuel Poverty as an Impediment to the Right to Adequate Housing

Fuel poverty falls within the scope of “the right of everyone to an adequate standard of living ..., including adequate food, clothing and housing” in Article 11 (1) of the ICESCR. In particular, in [CESCR General Comment No. 4](#), the right to adequate housing is [defined broadly](#) as “the right to live somewhere in security, peace and dignity”, rejecting a narrow or restrictive view that equates the shelter to a mere roof over one’s head (para. 7). By implication, access to energy for heating is one of its significant components. This is the focus of this post, rather than an autonomous ‘right to energy’ yet to be recognised by the Committee.

In more concrete terms, “[a]n adequate house must contain certain facilities essential for health, security, comfort and nutrition”, which include “energy for cooking,

heating and lighting” (para. 8 (b)). Such housing costs should be affordable so that “the attainment and satisfaction of other basic needs are not threatened or compromised” (para. 8 (c)). As stated in [Djazia and Bellili v. Spain](#), “[t]he right to housing should be ensured to all persons irrespective of income or access to economic resources, and States parties should take whatever measures are necessary to achieve the full reali[s]ation of this right to the maximum of their available resources” (para. 13.1).

The non-realisation of the right to adequate housing in the UK as manifested through fuel poverty is not a new phenomenon. In 2019, [Philip Alston](#), the United Nations Special Rapporteur on Extreme Poverty and Human Rights, noted that certain UK populations were choosing “either to eat or heat their homes” (para. 21). The situation has worsened with the [record number](#) of “[m]ore than two million UK households [being] in debt on their electricity bills”. As observed in General Comment No. 4, “[w]hile the problems are often particularly acute in some developing countries [...] homelessness and inadequate housing also exist in some of the most economically developed societies” (para. 4).

The Minimum Core Obligation and the Energy Price Guarantee

Due to the reference to progressive realisation in Article 2 (1), the nature of ICESCR obligations tends to be perceived as weak. However, given its direct relevance to the survival of individuals, fuel poverty concerns the minimum core obligation on the right to adequate housing.

As introduced in [CESCR General Comment No. 3](#),

“a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights is incumbent upon every State party. [...] [A] State party in which any significant number of individuals is deprived of ... basic shelter and housing [...] is, prima facie, failing to discharge its [ICESCR] obligations” (para. 10).

Although the full realisation of the right to adequate housing may be achieved progressively, the UK must immediately realise, or at least take all appropriate measures to realise its minimum essential level. The burden of proof lies with the British government, demonstrating that every effort has been made. While General Comment No. 4 does not elaborate on specific elements of the minimum core obligation on the right to adequate housing, access to energy for heating is an aspect of this right that must be taken into account in any context (para. 8 (b)), and thus should be considered as a requirement for basic shelter and housing.

The British government has taken some steps towards fulfilling its minimum core obligation on the right to adequate housing through the aforementioned Energy Price Guarantee and other financial supports to households. Nevertheless, they remain insufficient. The above-cited statistics, such as electricity bill payment delays of over two million households, indicate a significant number of individuals being deprived of basic shelter and housing.

By [reducing such measures from April 2023](#), the UK may also be in breach of [the principle of non-retrogression](#) (General Comment No. 3 para. 9). According to [the CESCR](#), “there is a strong presumption that retrogressive measures taken in relation to [any ICESCR right] are not permissible” (para. 32). As explained in *Djazia and Bellili v. Spain*, to take deliberately retrogressive measures, the British government “must demonstrate that the decision [is] based on the most thorough consideration possible and [is] justified in respect of all the rights under the Covenant and that all available resources [are] used. In times of severe economic and financial crisis, all budgetary changes or adjustments affecting policies must be temporary, necessary, proportional and non-discriminatory” (para. 17.6). Such retrogressive measures, [the Committee adds](#), “should not affect the minimum core content of [ICESCR] rights” (para. 4).

What to Expect from the State Reporting Procedure

For the purpose of monitoring the UK’s implementation of the ICESCR, only the State reporting procedure set out in Part IV of the Covenant is applicable. Regrettably, the individual communication procedure under the [Optional Protocol](#) to the International Covenant on Economic, Social and Cultural Rights is unavailable to individuals under British jurisdiction. The UK has not ratified this additional instrument, although nearly half of its 26 State parties are 12 European countries (e.g., Belgium, France, Spain). The majority of individual communications have [addressed](#) the right to adequate housing, albeit in relation to forced evictions (Coomans et al., pp. 17-47).

Yet, the State reporting procedure is suited to address widespread and systematic issues like fuel poverty. Under this procedure, the CESCR periodically examines a report submitted by a state party describing its ICESCR implementation performance, and the Committee’s assessment and recommendations are published as the Concluding Observations. The UK submitted its [seventh periodic report](#) in May 2022, and it will be examined in one of the CESCR’s future sessions.

UK fuel poverty resembles the situation described in [CESCR Concluding Observations to Germany in 2018](#), namely, “energy poverty” experienced by “a large number of households, particularly those receiving the basic social benefits” (para. 56). As recommended to Germany, the Committee may urge the UK to “adopt effective measures to ensure that all households are able to meet their basic electricity needs, thus avoiding power shutdowns for households that are unable to pay for their minimum needs” (para. 57). Rather than mentioning Article 11 of the ICESCR in general terms (as it did to Germany), the CESCR should clearly link the recommendation to the right to adequate housing and its minimum core obligation so as to enhance its persuasiveness.

Despite their legally non-binding character, the Concluding Observations should highlight fuel poverty as a matter of the UK’s non-compliance with its legal obligation on the right to adequate housing, and not the one left to its mercy or discretion. The British government would then have to give serious consideration to such pronouncements. Otherwise, it would not be complying with the ICESCR in good faith, as required under [Article 26](#) of the Vienna Convention on the Law of Treaties.

Conclusion

Given the minimum core obligation on the right to adequate housing under the ICESCR, the UK must alleviate fuel poverty as a matter of urgency. The CESCR Concluding Observations may offer an authoritative pronouncement to this end. It is crucial to maximise [the potential](#) of the Covenant to oppose the economic, political and institutional structures generating fuel poverty as unjust and inadequate and to demand redress for such injustice and social suffering (Bhuta et al., p. 1).

