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**SPEAKERS**

Mhairi Snowden

00:00

So you're listening to human rights 2020 is brought to you by the Human Rights consortium, Scotland. This episode is a recording of a webinar called our international human rights I sesco held on the 15th of May 2024. In this episode, consortium director Barry Snowden speaks to Professor Katie Boyle, about the International Covenant on Economic, Social and Cultural Rights. We hope you enjoy this episode. Okay. Good

**Mhairi Snowden** 00:33

afternoon, everyone. Welcome to this webinar that is all about ISIS group. So the International Covenant on Economic, Social and Cultural Rights. So we are totally delighted to welcome Professor Katie Boyle from University of Strathclyde. So Katie is a Professor of Human Rights Law and Social Justice, which is an brilliant title if you ask me. So welcome, Katie.

01:02

Thanks so much. lovely to be here. And

**Mhairi Snowden** 01:05

and so what we're gonna do is I'm going to start off by quizzing Katie on a few questions around this, most people have us the UN thing called ISIS skor. Or some people say I Chester, which I've never quite understood. But that stands for the International Covenant on Economic, Social and Cultural Rights, which is a total mouthful. But just to start us off, can you tell them nutshell, what is the treaty all about? Or is this covenant all about

01:40

30 years, so in if you just go back to historical possession, I say skr was introduced alongside the International Covenant on Civil and Political Rights in 1966. And both treaties were supposed to sit alongside each other. And this was a kind of the further implementation of rights post Universal Declaration of Human Rights, which was designed to be a declination and and of itself, but it was feel the the international community that it was important to elaborate on that. And so you had the framing of the International Bill of Rights, which is essentially comprises of the three treaties, and civil and political rights alongside Economic, Social and Cultural Rights activated to together as an interdependent and indivisible. And so I say, as good as the treaty in which we find those rates, the weighted to why we call FTD rates, such as housing, health, education, social security, and adequate standard of living access to water and sanitation fit in and very much I've been tempted to alongside another important component of human nature is environmental lakes as well.

**Mhairi Snowden** 02:54

Okay, so that's how I think when people think about human rights, they often think of what are called civil and political rights. So your freedom from torture, right to life, freedom of speech, freedom of association, that this is almost the other chunk of rights or by like you're saying the everyday right, so basic essentials that sit alongside that.

03:16

So I mean, it's not unusual that in the UK, that's a default possession, I suppose. Even I would, it's almost like an indoctrination into a particular view of, of human rights by the conditions in which we grew up in, which is, you know, our society and our legal context. But also, the we were taught about human rights. So even as, as a law student, I don't think I was had hair device Esker until I did my PhD. And I had an awareness that the Human Rights Act didn't go far enough to protect rights, but I didn't really understand why. And it wasn't until I delve into legal research on sort of economic and social injustice, there really is already there is a whole framework for these rights as well. It's just that I didn't know about them. So I would say that's quite a UK, dominant perspective other countries would have, and people who live in places that have a wider area of rights legally embedded might look at that rate might not go default to several and political. And, and that's also quite, you know, it's not a surprise that we have, we sort of have social rates, economic, social and cultural rates at the margin, because that's where their place legally at the moment. But also a that was a trend that emerged in international law post introduction of these covenants, and it was an adult, it was a legal fiction, so to speak, it was erroneous, they would interpret it differently, but it's how it transpired. And then the UK the ECHR, has played a really prominent role in relation to civil and political rights. We were highly involved in the drafting of the treaty. It's embedded via the Human Rights Act and also our to boast that So in Scotland through the Scotland Act, so civil and political days play an almost role, the cornerstone of the Constitution, because they are the human rights that are embedded in law. However, there's a gap and accountability gap is what I call it, because economic, social and cultural rights are also legal obligations that the UK is signed up to, but are not currently protected and low in across the UK at the moment,

**Mhairi Snowden** 05:24

really, which we are absolutely going to come on to later on the webinar, actually. So that's the plan for Scotland is to make these other these all of our rights, then enforceable, including these basic Essential Everyday rights, which is really exciting and important. And so so we need all of the rights protected them. And you mentioned a little bit about what are some of these economic, social and cultural rights? Can you say a little bit more about what are we talking about? What are those rates are in a sector? Yeah.

05:58

So I think we will have follow up sessions where we really delve more deeply into the different types of rates. So they that's based on some of the work had under a Nuffield funded project, which looks specifically at article 11 of a Cisco, which is the data and adequate standard delivering the aim, economic, social, and cultural rates cover a broad array of arrays, as I mentioned, there, they're those kinds of everyday delight related rates. So an adequate standard of living includes includes, for example, housing, food. And we also interpreted to include energy, a few, as well as a normative kind of standard of a living, which includes also things like rates or social security, which is an ICF Scarah. Alongside unemployment rates, which have a nice Esker, which sit alongside a, the kind of yeah, as I say, the sort of everyday rates that we that, that we live by, in relation to housing, health, education, social security, adequate standard of living, so just covering up just those aspects of everyday life, which are beyond, you know, rates towards our right to a fair trial, which would be civil and political rights.

**Mhairi Snowden** 07:24

Because even as you mentioned, though, you know, you just think, oh, actually right to Social Security, right, adequate housing, right to foods, you know, these are rates that are so often a risk, or we can immediately think I'm sure everyone on this webinar can immediately think of groups or individuals who miss out on those rights, but they actually are part of a human rights framework that the UK has signed up to.

07:49

Interestingly, like, again, if you look at the historical context, there's all a marriage is post World War Two, where international community says never again, this is harder, which visitors for the second time the century, can, you know, we can't avoid. So there is this concern today for today, can I use fundamental human rights on a global scale. And it's fascinating if you go back and read all the preparatory work to those treaties. So the Universal Declaration of Human Rights, the preparatory work to that absolutely recognised the importance of the economic, social and cultural dimensions of people's rates in order to actually enjoy step one political so they were completely dependent on each other, this social equality was required in order to participate in your civil and political rights. And you saw that in article 22 of UDHR. So the elaboration on what that meant, then followed through with the subsequent treaties, but the preparatory work speaks about economic, social and cultural dates. As I think the words were, it would be an amicus, it would be completely ludicrous takes expect people to live a life of dignity without recognising the fundamental rights that we need. And, and this is repeated throughout, you know, general comments and all those different accompanying materials that help us interpret rates. Even as recently as 2018, the Human Rights Committee, which is responsible for the International covenants, everyone political rights, spoke about the right to life in the context of economic and social rights, even though it's in the civil and political HTT. So they are interconnected and cannot be separated. It's just that we haven't legally within our jurisdiction properly accounted for them as part of our human rights framework

**Mhairi Snowden** 09:41

is really important. You can see how you cannot have a life where your government treats you with dignity if you just ignore the fact that you don't have enough food to eat or ignore the fact that you have no sort of security and safety net or ignore the fact you don't have health socially is the interconnectedness of everything. I think so some of the kind of rebuttal almost to human rights and putting these rights into law that you hear about is that the this is actually the basis about really basic goods, public services, and providing the services that work well for people. So why don't why do they need to be rights? You know, what difference does it make that they are rights, particularly if your rights actually enforceable in law, as opposed to just doing stuff while doing public services? Well, basic decision making?

10:31

That's a really, really excellent question. And I think part of that if we unpack that a little bit more, one of the things why we have this conversation over why whether or not rates are appropriate, and relates to the way that we speak about rates, again, and the UK context, but also elsewhere, you can have different discourses or narratives you could call them, which speak about rates in a positive way or speak about them in a negative way. So sometimes we get into a discussion about whether or not rates are appropriate, or what you'll often see in relation to economic, social and cultural rates is, yes, they agree aspirational political goals, but we don't need to create legal obligations for them, they should be part of our political, you know, democratic framework. But from our perspective, what essentially you're doing is accepting that, yes, that's all part of, you know, and political implementation via different means. But you're creating a sort of foundation or a normative framework, where you set down some clear expectations of conduct and decision making processes, which give people protections which respect their dignity, drawing on several political, economic, social and cultural dimensions of their everyday lives. And then there's lots of space to negotiate and work out how to actually do that in practice. But actually, to go back to your question whether or not the word rate isn't near as not the important aspect, drawing on international human rights law is a very helpful way to embed normative standards. But it's not the only way to embed or incorporate rates. So other countries do it in different ways. They do it in their own domestic constitutions. For example, Finland has a constitution, which has economic and social rights and instructions to Parliament are paid to fulfil them without necessarily incorporating ACS directly. Whereas Norway, for example, has a Human Rights Act, which directly incorporates by CCPR. And I say skor. In other countries have a mix, like Colombia and Argentina have a mix of, you know, direct incorporation and the rates enumerated in the TT itself. Germany recognises the right to dignity, and that's been interpreted as having economic and social rights dimensions. So you have all these different ways of doing it. But ultimately, what's important from the perspective of a enabling a participative social democracy is that you need to have standards which help decision makers make decisions that protect people and their legal rights. As you know, the UK has agreed to say not to, in a way that which allows them to flourish as human beings. And there's no perfect framework for this. I say it's good. It's not perfect either. But it's certainly a helpful place to start for countries who have agreed that that framework is important to them. And recognising how they want people to be able to enjoy that of the, you know, that everyday experience in society, know

**Mhairi Snowden** 13:54

that it's really helpful. And certainly the in consortium discussions, it is often such an empowering thing, actually, to know that you have these rights. And there are red lines almost that the government have cannot just ignore, particularly for groups who feel less heard or unheard or ignored often. And again, it gives a real vehicle framework to raise their voice and demands that actually something starting about they're missing out on that basic, really basic essentials.

14:24

I think there's two ways of framing that as well, because something's rates and I agree is it. It's really empowering framework to rely on, but equally without recognising it and ensuring it's there in law. It can become very frustrating. So that is why it's so important to have the legal framework along and as part of that legal framework have accountability built in for when something goes wrong. So then League of international human rights and ICS can can help decision makers make attend the sessions essentially, which includes embedding those rights, and you make that really important point. But it's also a way of ensuring those that can participate, for example, in a majoritarian political system, because they are minority get to participate via this is their their protection mechanism in which ensures that they're their rates are also included in decision making frameworks. But ultimately, what our legal framework provides when you embed rates domestically, is accountability when things go wrong, and as I say, it's about decision making processes, all the dates and I say it's very similar to ICCPR. There are degrees of protection somewhere absolute in nature, and some are not. So legally, that means that can be deductible or not the local. Or another way of looking at is that if rates are not absolute, you can have justified interference. But what's beautiful about this framework is if you have interference, whether eight, there is a responsibility of a GTB leader or a decision maker to justify that approach. So what you have in decision making and accountability frameworks is an evidence base to draw upon, which allows you to assess whether or not that decision maker has been reasonable and interfering in that in that moment, that's what's missing. So we can actually rely on the evidence, which we know tells us that things like food banks and poverty, and insufficient social security mechanisms, and the fact that some groups are in marginalised or completely excluded from enjoying these rights, we can at the moment, hear those hear that evidence when we are asking decision makers to justify that approach. And what the Nuffield study showed, when we work with practitioners across the UK, on the enjoyment of social rights is that lawyers and and practitioners are trying to shoehorn arguments and under other mechanisms, like formal equality, or civil and political rights, when actually what would be really helpful would be is if we could just repair to the actual rates that we're talking about, and the legal framework that protects them. And there's space in there for a realisation and a very flexible, and coherent way, which allows interference, but it has to be justified, and it has to be reasonable.

**Mhairi Snowden** 17:24

That's really helpful. And then we just shared in the chat box, a link to that enough your work that you mentioned there. And we'll send out after as well, where she goes into more detail. And we have the time to look at today in terms of assessor, I think, is interesting, because we're starting to almost get into details here. Well, actually, we all have these rights. And yet we know that the government is not compliant with them. They're not doing not doing all that they're required to do. And, and some of that has to do with being enforceable. But I think there's an article two of ISIS skor was set what's called progressive realisation. And before everyone switches off with another sort of term, I think it's really, really important to understand what that means so, so the not that these rights will be all realised overnight. But there is this term of progressive realisation of these rights. Can you tell us a bit more about what what that means? Yeah,

18:26

absolutely. So, again, not too similar to when we had ECHR, better embedded into our legal systems via human rights framework, the Human Rights Act and Scotland Act. We become more familiar with things like proportionality tastes, and what reasonableness means, what the margin of appreciation to states means. So progressive realisation or duty to achieve progressively that it's nice eschar is the article under which the weak legal obligations from Isa skor full and as not dissimilar to the way that civil and political rights can be interpreted in the way that we've understood what that particular article mean, has changed over time, as the treaty has been interpreted in different situations. So and this is, I'm really delighted we're having this conversation, because this is the part that probably is most confusing, if you're first, you know, it being introduced to the treaty, because you will know because it's not an article to one itself, where all the obligations are underneath it. So it's helpful to unpack them a little bit. And there's sort of eight what I call sub duties or sub obligations which will from progressive realisation but no nutshell what we're achieving progressively than a saying they say it scrum means is that states who are saved up to the treaty must take steps to achieve the rights in the GD without delay. And then you can see that all broken down into different components. So the first one is that they must take steps to realise the rights. And I'll speak about each of them in a bit more detail. But the first is that they must take steps and take steps, then Article Two on itself, then you can see a second obligation which is that they should respect protect and fulfil rates, which is a framework, which helps us to understand that you can sort of see compliance on a scale from the sort of a more light touch version to a stronger substantive version, and states and I'm under obligation to achieve all of them by respecting protecting prevailing rates, a states must use the maximum available resources, which means they must collect those resources and then use them in a way which ensures that the resources of the state are deployed to respect protect and fulfil those rights, they must enforce security is non discrimination, they must do it in a way, which is non discriminatory, which is a really important component, which ensures not just formal equality, but substantive majors to actually ensure that those groups that are marginalised receive, what might be required as, as additional resources to level up in terms of fulfilment I am the first subject is that they should immediately ensure minimum quarter rates. So progressive realisation is sometimes thought of as just something in the future, but actually includes both immediate and progressive obligations. So a minimum requirement secured immediately. And then building on that progressively. The second sub duty is to share that the state reference from NATO this measures so that there's no backsliding on rates, and that backsliding can only be justified in the most exceptional of circumstances, and only for limited periods of time. That any of the seven subject is that any limitation on rates must be justified according to the principles of legality, legitimacy, and proportionality. And finally, the subject it is that is one of accountability that if there is any problem with complying with any of the other ones, there should be an where there's a violation, there should be an effective remedy and relief available to a rights holder for a violation. So that kind of gives you the overview of all the duties associated with progressive realisation. And each of those applies to the different rates in the treaty. And then they can also be unpacked further. So it's a whole as a whole way of making decisions, which requires decision makers to ensure that they follow the steps that set out under Article Two and to comply with the treaty obligations.

**Mhairi Snowden** 23:31

It's really helpful and I should be new, that's a lot. Almost like to get your head around all of those eight things is a lot but actually put together and you can see how it's actually a really strong kind of framework that really doesn't mean something, you know, in terms of what that how that affects decisions, like just to pick out, for example, use a maximum available resources. So actually, I think it's like a hugely challenging one, the Scottish context, you said a little bit, but that's about what the money there are the resources that are raised as well as how they're spent. Yeah,

24:04

will you do is a very important point because all of this becomes more complicated in the context of devolution, where different parents have been conferred on Scottish Parliament and Scottish ministers as well as different competencies. So that is helpful guidance actually and international in more material which accompanies the treaty, and some of the general comments as well as comments of UN Special Rapporteurs. There's an excellent report by a will Anna fatty who was UN Special Rapporteur on adequate housing that looks specifically at sub national obligations, and the importance of ensuring that even in a devolved which is a sub national context that in the devolved government and the devolved authorities responsible ensure compliance Even in a situation where it's not been directly conferred on them as an obligation by the state, the fact that the state is a party to the treaty is enough to ensure the flow of obligations down to the devolved level. So, yeah, maximum available resources is also complex because of that relationship with devolution, where the state to the to the treaty is the UK and then at the devolved level, what resources are available or not all a maximum available resources, a perfect affected by other things which govern devolution am such as the Barnett formula, and so on. So we, what we see there is the responsibility of the Scottish Government to use the maximum available resources within that context and within their powers in a way that is effective, efficient, adequate and equitable. And by adequacy, we can break that down further into ensuring the resources are available to those groups that need the most through sort of prioritisation, in that about the level of compliance is acceptable, and that the quality of the rate, you know, the framework that's introduced, is sufficient to ensure those rates. And that then, what that suggests has a maximum available resources is that compliance with these types of veyts is really about how to budget properly. And it can, all these duties are interconnected. So a really important component of that is having enough data available to properly understand where there are gaps in rates enjoyment, so people assume sometimes, but everyone has access to decent housing, water and sanitation, and foods. And actually, we will see if you apply an intersectional lens, that some groups are worse off than others, and accessing even basic minimum essentials. And often these, this experience can be invisible, because it isn't part of you know, a larger majority of people. So what we need in order to, to deploy the maximum available resources in an equitable way is to understand where those really significant gaps are, and to plan ahead as much as possible to ensure that resources are deployed in a way which causes those gaps and then progresses in the protection of rights. And ultimately, it's the responsibility of the state to take those steps to do that, and make decisions about how to prioritise and where different, you know how budgets will be spin. But ultimately, they will have to justify it, and the test for whether or not their approach that they have taken because you know that there's an infinite resources available, you will always have to make decisions about where to prioritise and deploy. So the test to see is whether or not they've done that in complaints when they say square is to ask whether or not that approach was reasonable. And the reasonableness test in international law and international human rights law under those Esker is much broader than our legal test for what would be called rationality or witness brilliance reasonableness. So we have so we have a higher thresholds that we would interrogate those decisions with, to ensure that the company or compliance and deploying resources in a way that was fair, it was a also reasonable using that that particular test under my sister.

**Mhairi Snowden** 29:03

There's loads in there almost to think about it. And certainly in terms of human rights based budgeting, for example, we may well come back to that in another webinar. But I think even that point, that it's not the budgets and resources decisions are over here on human rights, and realising humanised people are somehow sort of separate from that and sort of a good practice, actually. I study human rights in general, given really practical framework and decision making tool for budgets, on how resources are spent. And in fact, unless you do that, you're not going to, you're not going to realise rights unless it affects your budget and your resource decisions. Exactly.

29:44

I mean, there's two things to say about that. The first is that resources of course, not about money, but their resources of a State can include lots of different things so it can equally includes like human resources. is a resources related to how we use our assets as a state that may be through education that may be technical, it may be natural, it made me administer to resources. So it's just been aware of so far. And by that, I mean, for example, see if we have funding available to support new projects, that London would be a resource, and the people that undertake the project will be a resource, and the projects may try to seek to solve some of these problems related to violations of rights in a way which helps to solve those, you know, the, the complex framework. And second, that you Yes, you beat budgeting and human race budgeting, is fundamentally, it's entirely part of the realisation of rates because, and actually, the absence of it means that it would be luck, that rates are being complied with, if it hasn't been built in and baked into the budgeting process. And often, what you'll see from the perspective of those, those decision makers and rights holders as they will probably be, you know, most likely been trying to spend the budget in a fair and equitable way, and taking into consideration the fact that they have lots of competing priorities. And people facing really difficult situations. So and also budgets are used in different ways at different levels, with local authority budgets, compared to national budgets, and so on. So actually, what you need is a conversation about how to manage that process. It's still the state's responsibility. But any power that's conferred or decentralised has to come alongside a question of, if you give that local authority, that power or that responsibility, are you also ensuring that they will have the resources available to fulfil it. And ultimately, you know, it's the state that's responsible, whether that be at the devolved or national level nine, so

**Mhairi Snowden** 32:11

often very silly messages, especially at the moment in this tight fiscal times that we're in, that's not a reason not to pursue rates a little bit, actually, absolutely is a reason to do it. But there there needs to be at all those different levels and needs to be recognition of the resource needed and human rights base budgeting bill, and I take your point that we're we are in a complex situation, because we were talking about things that sit within the Scottish Government, and we want to hold them accountable for what they're doing to realise these rights. But also recognising that we're in within a UK context. We're not, for example, Social Security, about 70%. I think social security is still at UK level. And about 30% or so is divorced. So it's complex, but it's about accountability. On that, then actually, so one, just encourage people to put any questions in the chat box. Otherwise, I will keep asking Katie questions from from me that they're something that we've talked about and mentioned that the plan is for the in Scotland to incorporate a seska or so this treaty, and at least all the parts of this treaty that are within Scotland devolved to be met directly into Scots law, and that would make them enforceable. That would mean that there's new duties on public bodies that have to recognise and realise the rights and put them into practice. And they'll have to report on what they're doing around that. So they'll become enforceable for individuals, or groups, ultimately, in court, if need be, but also will have direct impact types of decision making and public bodies that they need to take them into account. So there's always a new framework for accountability on these rights to actually be able to use them. Can you can you just give us your reflections or why why is that important? And do you have an example of how what the impact could be of ours of Scotland taking a Cisco more seriously, almost?

34:17

Yes,

34:18

and this relates back to I've had to come come back to the the complexity of devolution. And so my research is largely and has been for a long time focused on accountability, aim and I part of that is driven by the fact that in from a legal perspective, when I was actually still a student in school, and I was working in a law firm, doing work experience, and went to work with a family and there was there was black mould all down the state of one of the walls and the Human Rights Act already been introduced when I'm speaking to the lawyer about it. And there was like, notice that there's no remedy for that situation. addition under that trademark, so everything I've really done since has been informed by that, how does somebody get home? Where is the name of the where's that capability. So it's excellent to embed and implement human rights compliance into decision making and encourage and help decision makers to change the way they approach by embedding human rights into their work. But ultimately, if something goes wrong, what happens? So the accountability space is where I really focused most of my research and in the UK, and in Scotland, access to justice for economic, social cultural rates in a male basically, that the system is not calibrated to meet with man at the moment, it will take a huge leap to help to fix that. But there would have to be very proactive mechanisms to change people's experience of seeking justice in order to ensure access to effective remedies. And or there's been excellent work by the Consortium on that, as well as the Scottish Human Rights Commission. And we covered a lot of it in our in our food project as well about all the gaps and access to justice journey. So with the caveat, all of that still needs to be solved. And that's things like access to legally debase representation. But also, ultimately, as well as incorporating the rates, ensuring that courts tribunals and other remedy providers can provide relief and remedies which are, which are effective in practice, in which is a big gap. So, by embedding I say, skirt, and to domestic law, which is a lot of what my research has been on, you will help close that accountability gap by by enabling people to rely on that legal framework when something goes wrong. So for example, in that case, the team that had been working on being able to either hold the landlord or the local authority, sorry, social or private landlord to account by saying you know, the house is is not habitable, so it does not meet the standards of adequate housing, and the data adequate housing, then applying all those obligations, and ultimately getting a remedy for that person. However, following the UN CRC reference, after the UN CRC bill was passed in the UK Government referred it to the Supreme Court, the Supreme Court's interpretation of devolution, has made the use of incorporating legislation in Scotland a little bit more complex and complicated than it would have been prior to that judgement. And that is because the Supreme Court has said that when you incorporate race, which is entirely within the devolved competence of the Scottish Parliament to do so they have the power to observe and implement international obligations. So a corporation is absolutely fine to do, however, in the court introduced higher threshold for what types of laws could be within scope of incorporating legislation. And what it said was that the Scottish Parliament cannot interfere with the unqualified power of the UK Parliament. As a historical sort of court beam. happenstance, the way that the Scottish Parliament has used its legislative powers since devolution is when introduces a new piece of legislation, rather than totally recreate the legal framework. What it is done is amend Westminster legislation. So the Housing Act of homelessness Scotland Act of 2003, introduced a rate a statutory date to housing it's a really powerful, right, but it did so by amending the 1987 Housing Act, which is an act of the UK Parliament. And what the Supreme Court has said is when you incorporate access card, because you've been because your housing rate is included in an act of the UK Parliament, because it's a Scottish Parliament amending the hoses Scotland Act of 97. In Europe, incorporating act will not apply to that UK act, even although it's in the devolved area, even on what was an act of the Scottish Parliament, which embedded the enhanced the legislative, right. So this is really problematic. However, you know, some may say, Well, why bother, why bother doing it and if it's gonna be really, really complicated, and whatever legislation does not fall under, are incorporating Bill was that the kidneys bill or the UN CRC act? Well, the Scottish Parliament could change the way that it's an Act legislation in the future and can go All definable and previously been acts of the UK Parliament into Scottish law. So incorporating legislation becomes a stepping stone and a building block to progress and enhance rates as we go forward and bring more over legislation within the scope of it incorporating legislation. But until such times as that happens, actually, it will be difficult to rely on some aspects of a CSGO. Court. Now, that's not to say that it wouldn't be a embedded into decision making. It's just our routes to remedy it becomes slightly more complex, which is frustrating, but not insurmountable. No,

**Mhairi Snowden** 40:41

absolutely. And just on that, starting from the Consortium, and the others are advocating around the general election, all the political parties to say, you know, what, sort out the Scotland Act to make sure that these sort of scope issues for Scottish human rights legislation are not an issue and shouldn't limit it. So there's lots that can be done to sort that out. We've just got a few minutes left. And there's a question in from in the chat box. So the reason cuts, the housing budget was not reflective of human rights budgeting that's where they actually reduced the housing budgets. Rather than increased it. The Scottish Government will be declaring a housing emergency today, but I'm already concerned by projected blame on the UK Government for any failure and facing like we will continue to do everything we can with the Paris at our disposal. How does this fit within the Scottish Government's commitment to human rights framework gets it we're already allowing themselves a backhoe clause. So far, there's no mention of funding and through other means outside the UK Government, how realistic is it to expect a fresh visits tax reform? And this is an excellent question, because this is actually about accountability. So can the Scottish Government sort of wiggle out of their accountability on using their resources in order to address what is a really fundamental economic social rights issue? But by saying well, is false the UK government we will go limited resource etc. Any thoughts? Katie?

42:07

Yes, so the state's under an obligation under ICS carenado sub duties to refrain from retrogressive steps. So that's a backsliding on rates. And this is a really good example of a backsliding on rates. So what I might do is in comparison to a country where retrogressive steps have happened and more accorded by way of example, so Rachel case of steps are only allowed in the most exceptional of circumstances. And the justification is a higher threshold than what would be for an interference of a day. So in South Africa, during the during COVID, and actually, it's a really good example to compare the UK freemark With with a country that has economic and social dates embedded into the constitution. So South Africa, created a constitution post apartheid, which embedded economic social mixers, constitutional rights, and during COVID schools records similar to the UK. And there were school schools programme which provided free school meals similar to the UK. And as part of that, causing other skills because then the Food Programme, and it was taken to the Supreme Court and our Constitutional Court, South Africa, which looked at it and said, Well, this is just a clear retrogressive step you have been providing at this level. I know you're withdrawn that you've backed, you're backsliding on your commitment. And you have not given a justification in which enables a database of state and economic crisis is not one of them. So what is the Constitutional Court in South Africa said We shall meet to reintroduce the programme and we would like to see your reporting on this. So it gets reintroduced immediately. And then we'd like to see some progress reports to see how that's been implemented in practice. And at the same time in the UK as a same question was being grappled with. There was I don't know if you remember, of course, people will remember the Marcus rash was kind of campaigns, we had a footballer campaigning desperately to ensure children could still eat food to survive. And it went to a vote in Parliament just before Christmas, and Parliament voted against the provision of free school meals. And so that was withdrawn. And to me, that is like a stark contrast of when you don't have rights embedded in your legal frameworks to protect particularly vulnerable populations, but all of us ultimately from these types of attributes of steps. So this would be a good example of a retrogressive step that would require a really high threshold to justify it. And accountability would be enabling making a Some to step in and say, Actually, this needs to be addressed immediately. And the justifications of the state can still say, No, we simply had no choice for these reasons. But you would get an opportunity to actually interrogate and assess those reasons, whereas simply just releasing a potential sure nice to see, you know, unfortunately, there's nothing we can do about that. That's not when it's a face as a reasonable justification. So it's actually getting it's the intensity of review of those decisions is where the accountability can occur. And that's a really important change that will happen.

**Mhairi Snowden** 45:38

Brilliant. I think that is so powerful, actually. So what we're saying that there will be a duty to take steps and prove on rights, but actually that you cannot just backslide, you can't just go backwards without giving at least huge justification and full consideration to that and the impact will have including on particular groups thinking and then on discrimination. So there's loads within ISS when you pull it apart that actually makes for a really strong and effective framework to make sure that rates are realised, particularly for groups who often miss out on them. We get to talk on for another couple of hours, but we've run out of time. And for Nova thanks so much, Katie for sharing your expertise with us. They were really helpful in

46:26

which we have made Thank you.

46:30

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