Housing Webinar 05-6-24

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**SPEAKERS**

Mhairi Snowden

00:03

Welcome to human rights 2020s, a podcast from the Human Rights consortium, Scotland. This episode is a recording from an event called Aurora international human rights rights to housing held on the fifth of June 2024. In this episode, consortium director Barry Snowden introduces Professor Katie Boyle, from the University of Strathclyde to discuss the right to housing and the impact the street could have when it is incorporated into Scots law. We hope you enjoy this episode.

**Mhairi Snowden** 00:36

Good afternoon, everyone. Welcome to this webinar today, which is around are international human rights and looking specifically at the right to housing. So welcome. Thank you for taking the time out to be here. And we are absolutely delighted to welcome back because this is a series of webinars Welcome back, and Professor Katie Boyle, who is from the University of Strathclyde, where I absolutely am really delighted to have you and I know that you're a such an expert around economic social rights, so it's bad to be able to ask you lots of questions. Thank you. And so what we're going to do is we're going to kick off with sort of 2025 minutes of just setting out what is this right to housing that we're talking about some of what that means, what it looks like? And then as I see, well, absolutely come to questions. So first of all, on the on the face of it the right to housing seems relatively a kind of straightforward idea that we should all have this right to housing, but it is actually comes from an international human rights law and in the UN or international treaties and covenants. So that's right to hosting is in the Universal Declaration of Human Rights. It's in what is called the International Covenant on Economic, Social and Cultural Rights, which is a bit of a mouthful. But often known as ice Esker is also in the children's rights convention. It's in the women's rights convention, it's in the disabled people's rights, and convention and multiple other places. So so it's not just a URL to one place, but actually right to housing is recognised as really important across the international human rights system. And importantly, the UK has signed up to these treaties. So the UK has signed up to these what does that mean, Katie, like for all of us for this right? Does it mean that they have to comply? Is that scrutinised? Because it's at that kind of international level.

02:55

Thanks very much. And thanks very much, again, for the invitation to join you all. So yeah, that was really helpful overview at the start, because the aid to adequate housing is recognised as sort of fundamental to enjoyment of other rates. and is therefore, a repeated across a number of important international treaties. And as he said, the UK signed up to them. So that means that the UK haven't seen and ratified those treaties, is under obligations under international law to comply with them. So that means it's the UK as a state is under an obligation, a legal obligation to comply with the data, adequate housing at the moment, and has been under that obligation, since this treaty was ratified in the 70s. However, the way that our legal system works in the UK, and this isn't a universal situation, other countries have other ways that the legal system is set up. But we're in the UK as what's called a duelist state. So that means that you go through a two tier process. The first is to sign and ratify the treaty. And then for it to be applicable in domestic law, you need to go through a second process of incorporation. So incorporate that into domestic law, which is what a lot of the discussions we have in Scotland right now is because essentially, what the Scottish government has promised to do is incorporate those international obligations that the UK hasn't yet done so into domestic law to do that in devolved areas. And that's really important because unless you incorporate you have what's called an accountability gap, where it's very difficult to enforce your rights that are part form part of the state's legal obligations at a domestic level. That was actually this was the same situation in relation to the European Convention of Human Rights. The UK had signed up to before the Human Rights Act, you could still take cases to Strasbourg before that came in, and then a 90 MIDI you had the Human Rights Act and the Scotland Act as well, which are embedded ECHR and incorporate interest rates domestically. So that's, that's the gap that's that's seeking to be caused in relation to that. And that aid to adequate housing is like other rates under the International Covenant on Economic, Social and Cultural Rights. Article 11 is where you find this rate codes, in return adequate standard of living, and that includes housing them, as well as things like a foods, energy, water, like things for your being able to live your right to life, essentially, your aim, which is sometimes a falls under its civil and political rights treaties. But because those rights are indivisible being what I say it's good dancers recognise that these building blocks are required, including housing, or suitable shelter, either accommodation, wherever you want to call it. And you can break that down into what the international human rights gives us, is a very clear decision making framework. And so what's absent from decision making at the moment is that there's no requirement to take these standards in into account when making decisions around the housing policies, housing provision, and also people's everyday experience of including habitability and, you know, rules against no forced evictions and children due processes rather than that's, that's statewide. So if it's helpful, I could probably break down some of those different kind of components in Yeah,

**Mhairi Snowden** 06:37

no, absolutely. I think I just think that was really helpful to hear that actually, the UK does have an obligation to meet all of those those rates of the basic essentials, which includes the right to adequate housing at the moment, but because of our system, it's not then part of UK law, which is, as you were saying about that accountability gap. And but yeah, let's break it down a bit further, I'm just going to some empirical into the book as well, because a UN level, they don't just stick out, you have the right to adequate housing. But there are what are called general comments, which is of any UN sort of term, I always think but basically explainers, which go into a little bit more depth around well, what is what are some of the details of that? Because in some ways, that's when writes really have sort of teeth when we get into some of the details. So So yeah, brilliant. Put them in the chat box, if you could tell us a little bit more about what the UN say about those different elements almost at that rate to adequate housing?

07:37

Yeah, that's actually a really good question as well. Because sometimes what people will see it as like a, an actual treaty provisions, very short person, we can often be in just any other kind of piece of legislation. So you need to delve and dive a bit deeper to understand what it means when you break it down. And I was speaking at an event on Monday, which was to, specifically to lawyers, and one of the questions that was asked was, well, how do we find out what these rates mean, in practice? And so you're, it's really important to raise that point that you see that we have what's called general comments. So general comments does come out of like commitments, or there's a committee responsible for overseeing compliance with the covenants internationally, we get one, one committee per treaty. So the Committee on Economic, Social and Cultural Rights is a group of experts which are drawn from party states across the world. And they go in like four year cycles. And every so often the issue in general comments to help explain further. So there's a general comments four and seven on the right to adequate housing. And then you also have a special procedures in the Union where you can have the appointment of an expert in an area. So there's been historically and I UN Special Rapporteur on adequate housing, who's actually the, you know, various guises of that role have visited the UK to examine whether or not we're in compliance, and then the committee also looks at it as well. So the way that those the UN Special Rapporteur, and the general comments, workers to give us much, much more depth on what we actually mean by adequate housing and the right to housing. But also, it's important to note that, as I mentioned earlier, states all over the world already embed this array into their domestic systems. So we also have like really rich in jurisprudence, which is, you know, court adjudication on it that helps explain that a little bit more, as well as examples and practice through different legislators and policies around the world. And so there's a big body of really rich research and evidence that can help ensure that we properly understand the meaning and content of rates. But an important aspect that's often missing is the participation of the people in Both as well. And so actually people who live in housing, which doesn't meet their straight are probably the greatest experts on what's required. And so ultimately, to force a write properly, you need to have participative processes that hear from those people directly. And that's a really important component of it. So the way that those different sources break it down is to look at availability of housing. But by that it's not just the number and quantity and quality of housing, but actually, when you create housing stock, do you ensure that you have availability of resources, so it's an access to water, energy storage, refuse, you know, your social services. And the second component is around adequacy. So looking at cultural adequacy, put examples are really, I'll give by way of example, sometimes you'll find that people are put in temporary accommodation, and that can drastically impact on their cultural rates to cook and provide meals for their families in ways which meet their cultural heritage, for example, by not having any cooking facilities, and that's a breach of the data warehousing to not accommodate that cultural normative, you know, standard of adequacy, habitability, people will, you know, intrinsically know what that means they don't be sure that it's not cooled down, there's a property eating, it's protected from rain from water ingress, and that it's safe to live in, you know, that it's not that there's not hazards. And again, we see there's a recent report rule, within the last year about the danger temporary housing has become an MC actually, record of 50, up to 55 deaths of children, this was in England, specifically this report related to hazards that were posed as part of temporary accommodation. And that's a breach to the right to adequate housing. And then you've got affordability as a component. So affordability can be about the cost of housing, and but it can also be about whether or not you're in rented housing or not, whether or not the cost of living there accommodates the income that you have so proportionate to your overall income, is how affordability can be measured, measured. And that when for example, rents go up control that there should be regulation of that, to bring it back down to make it manageable as part of a cost of living package for you to live in the house in your area in a way that is proportionate to your to your income. As well as just ensuring that you know, in relation to overall household finances, so the cost of living cases, is a perfect example of a combination and cluster of issues which directly impact on the data, adequate housing as well as a number of other rates. Just

**Mhairi Snowden** 13:01

check on that. So in terms of to pick up that affordability, because I think that's really interesting. So what you're seeing is not just about the kind of costs of your rent or your mortgage, whatever, overall, it's it's about how, like almost the proportion that you have to spend on housing that may impact your other basic essentials that you need is that have I understood that right? It's almost the interaction between the affordability of your housing, with other things that is so relevant in the situation in the UK at the moment?

13:35

Yeah, absolutely. And that the way that economic, social and cultural rates, together with civil and political and environmental needs openings, is to recognise that you have to look at them holistically, one is entirely dependent on the other. So, for example, if your housing is not up to standard, it will most likely impact you in other areas of life. If it's too expensive, then you may end up getting into debt, or rent arrears. If it's a, you know, not habitable in various different ways. If you've got dam or problems with heating, or the cost of heating, and that's going to impact for example, your health and the health perhaps of children living in the home, which can then impact their access to education can impact you if you're feeling unwell in relation to employment issues, they're also closely connected, that they need to be worked out as a whole. And that's what that international framework does. That's what it that's what it allows you to do ellos, then divisibility that connect to miss of each of those rates to be understood as a whole.

**Mhairi Snowden** 14:45

That is really helpful actually, because I think it absolutely makes sense but it also makes a stronger protection for people actually, if we look at them all together, in terms of accessibility, then what does What do we understand about the right to adequate housing and accessibility?

15:04

Yeah, so accessibility is making sure that your housing provision, it accommodates the needs of different groups, and some groups will have different types of needs. So, you know, the UN Convention that needs of child will have, you know, what do you need to take into account to ensure that these, that housing provision is accessible to children and all of their needs, like schools being close by, but equally, you could, you know, the UN Convention on the Rights of Persons with Disabilities will also require specific a measurements to be taken to ensure access to housing provision, which accommodates the needs of different disabilities, and that that should be factored into the planning process. So in that convention, and the UN Convention on the Rights of Persons with Disabilities, you have the right to adequate standard of living and housing recognised and article 28. But you also have the right to live in the community. So not just housing provision that sort of separates everyone else or some form of you know, sometimes the dangerous, what you'll see is the growth of institutionalisation. Actually, what article 19 of the UN Convention on the Rights of Persons with Disability says is that you should have the right to live within your community. And so housing provision which meets this disabled needs, within within the community itself. The next one around security of tenure, that is essentially about ensuring that your your lease is strong, you have a you know, you have protection around being able to settle and enjoy your home over time. And so really, it's the responsibility of the of the state and anybody that's exercising authority, whether that be a local host, who's an authority or a private landlord, to ensure that there's no threat of eviction, and if they're an unusual circumstances, that eviction does a credit has to follow, due process, be fair, give people the opportunity to have their voices heard as part of a really, you know, robust legal process. But ultimately, if it's unavoidable, then there's a duty to find somewhere else for that person to live. So suitable accommodation, for example, eviction is, is something that can't be avoided. The next one around appropriate locations, I've kind of already spoken a bit that about the availability of services being nearby that people need to have access to healthcare facilities, to employment opportunities to schools. And so location takes on that broader picture that is not just housing stock without services. And then ultimately, that's in order to make sure all these different things happen and continue to happen. And to keep it under the view that there's a responsibility to ensure that there's a strategy in place, there's a housing plan. And there's the plan takes this into consideration. And seeks to realise right over time, so it's not just always emergency responses to crises, but actually a plan over time, which helps to protect and achieve the night.

**Mhairi Snowden** 18:31

Really helpful. And, and a lot of that is just think actually all of those features, you can see how all of those needs to be in place and considered for people to be able to live a decent life with the basic essentials in place, like if you're, you know, if you don't have that security of tenure, then there's such an uncertainty. And that just can really impact your quality of life. And that's true of the other things as well. It's really helpful. So all of these sound in some ways, like, like, this is the way things should be, but we know that we're far from that. So we know that actually, there's really significant issues with a lot of these kinds of issues with housing in general. And we'll come on to some of that, wee bit more about that the UN also requires that states or countries progressively realise these rights. So there's a recognition is no overnight. But actually, there's sort of concrete steps using maximum available resources. Now, we've had a webinar on this already, but it should be which goes into lots more detail around what that progressive realisation of rights must look like. But I just wonder if you want to say a few words about how that relates. So that's right to adequate housing.

19:53

Yeah, absolutely. So in a previous webinar, as you mentioned, we can broke down the different duties. So we have those general comments. And we have places where we can go and find to understand what the eight means and practice a little bit more. So all those different types of things to take into account. But separate to that. The treaty itself also requires lots of different steps to be taken to make sure that eights are implemented in practice, recognising Of course, when I say all of this, the UK hasn't taken the steps to do that. So it's not a cutting at the moment, it's just by chance, if you do end up in a situation where your right to adequate housing is the Met. But what research tells us is that it's not across the board, it's a huge gap. And people live in circumstances that do not accommodate their right to adequate housing, and they have no remedies to solve it. So that's the big problem that we're trying to fix and Scotland by taking steps to do that. But ultimately, you know, these steps that I'm about to explain their theoretical, but the UK is not actually made the made the move to make their legal legal obligations or requirements at the domestic level. So states have to they're supposed to take steps to fix this problem. They're they're supposed to be, you know, regulate the market, protect host people, people in terms of ensuring they're living an adequate housing, and over time progressively improve that that process are recognising that they can't fix everything immediately. But there should be a plan in place, and that that plan has to properly understand where the most housing leaders, which means properly understanding where the biggest gaps are, and can't do that unless you generate enough data. To understand, okay, we need to prioritise this group over here, because their circumstances are absolutely dire and needs to be prioritised as quickly as possible to bring them up to what would be called minimum core. So progressive realisation is a bit overtime and minimum standards is about immediately enforceable, is unacceptable for people to live in circumstances which impinge their dignity on a daily basis. So recognising those two decades, almost like if you think about it, on a sliding scale of yes, that's fantastic, what we're, we're achieving over time, that immediately we need to fix these these issues. And ultimately, in addition to these minimum member cases of standards, what the treaty also requires states to do is to make sure there's no back seat. And so one of the big things that we've had, historically, as you might have had policies and measures that come in, you know, sort of waves over decades, and some of them have been really progressive and really good. And they've helped build up the stock. But ultimately, over time, the scale has just been going private and further and further down. And we know that's because, like impact of austerity affects people throughout their life course, reduces life expectancy is really problematic. We know that, you know, policies which remove these from people impact their their their right to leave, and retrogression or slip backs leading on rates is also prohibited under this treaty, except from really exceptional circumstances. So what if you were to embed these requirements into law, what you would see is a decision makers have to justify that they are taking all of these steps. And ultimately, if they are not, what it should do is open up routes to justice. So enable people to be able to go to a complaints mechanism. You know, ultimately, a court of last resort people much prefer much, you know, to be able to access remedies and fix the problem much closer to, you know, their home through via decision maker appeal mechanism. But ultimately, there should be a remedy, there should be a way to access justice and fix the problem if all these things go wrong. And that's the last kind of component of what's required.

**Mhairi Snowden** 24:14

Thanks. And I think actually, in terms of that access to remedy, so access to do something about it, do you know when that right is not recognised? So let's look at that just now in terms of the Scottish human rights bill, because at the moment we're seeing that you should have this access to remedy but right now, there is an accountability gap. So as you explained before, because these are international level, but we need the international brought home into law here in order for there to be that access to remedy and actually sort of for people to be able to use that right. So at the moment, people on this call make Be aware that there are the Scottish Government has committed to introducing a Scottish human rights bill that will directly incorporates ice Esker. So the treaty have economic, social cultural rights that includes the right to adequate housing in the same way that they've already done with UN CRC. So people might be more familiar with that. And that will mean that the those rights need to be taken into account and decision making. About also that means that the rights will be ultimately enforceable, that is that people can ultimately enforce them in, in court if need be. Sure, there's a lot of details of that. But can you just give us some reflections on why that incorporation is just so important for making this right, a reality for people?

25:50

Yeah, I mean, in all the research that I've been doing for the past 20 years, has been about when I first worked in a law firm, and kind of work experience and seen circumstances where people were living in a room with you know, there might be like black mould in the walls, and the kids were getting sick. And we have examples of this. Now, you know, people I understand that people in the call and a those living in circumstances which are so so intrinsically difficult, will know much better than I did about that. And we had, of course, the death of our shack from from from more than ventilation problems in the house that caused respiratory illness. So my whole driving factor of all the research that I've done is that it's not good enough to simply say, you know, we're going to try and use these rates and embed them in our policies. I ultimately want to see backstops which mean that when violations occur, you can hold a decision maker to account because ultimately, whilst that might work in practice, in some places and forms of implementation, and you might see some good practice from local authorities or decision makers or private landlords, I want to see a situation in which for those circumstances when it's not working, and that isn't good faith, and that isn't cooperation, people can hold that decision maker to account, ultimately, in a court of law, if required, if not in another place, which is more suitable for the needs of that person whose rates been violated. And if you embed rates and incorporate them, ultimately, you should do it in a way which enables access to effective remedies, which is what I'm speaking about. So the hope is, and the expectancy is about, the Scottish Government has a policy to incorporate, and that the Scottish Parliament seeks to do so in such a way, as far as possible to embed remedies as part of an incorporating framework. And areas of devolved competence in that and what makes it a little bit more difficult to do that is sometimes in the context of devolution, you don't have full levers of power over every area. So it'd be great if the UK parliament were to do it for everyone. In absence of that Scottish Government has Scottish Parliament can do so in devolved areas. There are some complexities around further steps that would be needed to make sure that an A that the legislation in Scotland expands far enough to include all devolved areas. But if you were to overcome some of those complexities, yes, actually, what you're doing is saying, this is the right law, please comply with it. If you do not, we will seek a remedy in court. And remedies can be all sorts of different sorts, some remedies will go straight to the heart of the problem and seek to fix it there. And others will see this can't be solved overnight. But here's a plan to fix it as quickly as possible.

**Mhairi Snowden** 29:06

That's really helpful. And actually, just to build on that, on that idea of remedy. So as as you were saying, there is a complexity here around devolution, what can the Scottish Parliament do of what kind of but but if those devolution type issues in terms of scope are sorted out, by some means, and and this Scottish human rights bill is introduced and passed and has those broad and strong as possible, right to adequate housing. So there's lots of ifs in there. But if that was to happen, is very often that issues where individuals around housing are actually linked to systemic kind of structural issues things like there's just not there's not enough social housing or there's there's not enough budget being put to things or there's different types of hastens like this like real kind of stuff. systemic issues that then individuals face if if this new human rights law comes in as as strongly as possible, and what are your reflections on sort of how that would start to impact the improvement of the kind of housing system in Scotland? And what ways might it help to do that? And sorry, that was a long question.

30:26

So what international human rights law tells us? And I think it's, it's, I think, it's really important to recognise that any form of incorporation will encounter complexities and difficulties along the way. And these things may take 10, because that's, it's really important to manage expectations on that as well. But what I would say is that the international human rights framework provides an excellent vehicle to try and address a lot of these problems. It's not perfect either. But it sets out standards, which have embedded into domestic law can enable transformative change. And you see that and other countries are really, really important. Part of that is around responding to the what I would call the justice gap. So often, what you'll see when accessing an MD and law is that it's very complicated, it's very difficult to get advice, it's very difficult to have awareness of your rights, you may face you know, barriers in accessing remedies. But if you were to embed domestically, as an incorporating the with access to effective remedies, that the Justice Justice system would need to change, to try and better accommodate the fact that yes, often when you see housing issues, but they don't just apply to one person, they're systemic in nature. And so you need to have collective responses. So some of the research I've done on on men, the Access to Justice, people tell us that when they encountered a problem, they want an apology and an acknowledgement. They want it to stop happening for the problem to be fixed. And they don't want it to happen to anyone else. And that last part is really important. Because if you don't do structural, systemic change, which applies collectively to everyone, then you're requiring on everyone complaining separately and individually, which creates a system where the burdens placed on the individual, you have got fear of retribution, you've got to access their data representation have resilience to challenge the system, and then nothing changes for anyone else, which is incredibly frustrating. So embedding economic and social data properly requires legal systems to change to address that meet systemic cases. And structural responses are a way of doing that. And we're, for example, if you give an example of a case, and the UN committee, recently had a case from Spain in which someone had been forcefully evicted without due process, so they hadn't had that chance to get a lawyer to defend the case. And there was a breach of the human needs that what the committee said was this, this should have happened to you, but it shouldn't have happened to anyone. So what's been needs to do is go and change this law, so that it affects this systematically. So the evictions don't happen in this way. And where they are unavoidable, there needs to be steps taken away in advance to ensure whoever has been affected as rehoused in suitable accommodation in a way which meets their needs. But that should only be in the most exceptional of circumstances. So it's an example to see that when that one person, you know, raised a red flag to say there's a problem here, the response was, Well, actually, this is no, this is statewide, fix it for everyone. And those types of remedies are incredibly powerful to help resolve that collective collective issue. Other places like Columbia have a system where it becomes clear, there's lots of people raising the same issue over and over again, courts will group those cases together, and say, we're going to deal with this systematically for everyone. And so the orders are applied more broadly to even those that were in the case. So it's those types of of responses. No, we're not there yet. But the pressure that this framework case is to come up with mechanisms to do that better.

**Mhairi Snowden** 34:20

So yeah, so that that isn't really helpful. We're not there yet. You know, when they've not got that accountability and that access to justice as as yeah and and rates embedded into decision making, but that's where we should be and that's where we're headed is really helpful. And I think and I think that's a helpful in response to a couple of the questions actually in the chat box and go into you know, can we do about the rates and so to make them real, and just say we can put in the time get into what's in different pieces of Scots law ready that relate to this? Of course, there are many So it's like, I totally get that hosting Scotland bill is really relevant. And but we wouldn't have time to get into the components of that today, I'm afraid, although, yeah, that's a really important. I wonder I can come to the question about, like, the UN CRC incorporation. So that's a children's rights convention that's been put in Scots law? Isn't temporary accommodation or breach of children's rights to adequate hosting, and what does their access to justice look like? 16th of July, which is the date when that piece of law will actually come into force? Do you have any reflections around sites or temporary accommodation and how that relates to rights, which are no part of our law? And indirectly?

35:44

Yeah, I think it's, you know, in order to answer that it would require in Valley really getting into the nitty gritty of the devolved complexities. So, I think a helpful way to respond to is that both incorporation out for UN CRC and the housing. So the the human rights bill, which incorporates wader treaties, need to be looked at as stepping stones, towards better protection of of rights. And yes, in the UN CRC and incorporation act opens a door for fixing, for example, temporary accommodation can be justified in some circumstances, but not if it's unreasonably used and it is unreasonably used when there is no end to it. And there is no plan to fix it. Also, it needs to accommodate specific needs. And the international human rights framework tells us all of this, all those rules apply. And, and importantly, I've mentioned those very dire circumstances that have led to the death of children in temporary condition. So complete breach of human rights Absolutely, clearly saw the way that housing temporary housing is a provision that it's provided under and Scotland is under the housing Scotland Act, from 1987. No, because of the way the Supreme Court has recently interpreted some devolved legislation. That means that, in order for it to apply under the UN CRC Act, the Scottish Parliament needs to take some further steps. So the UN CRC act opens the door, but to make sure that that activates in relation to temporary accommodation, there will be an extra step for the parliament to say, Okay, we're taking this housing area devolved area, and we're putting it in an act of Scottish Parliament in a slightly different way. So So I am aware that to delve deeper and deeper into that may just open up to many complexities. But it's an excellent question. And yes, it will make it will make a difference, provided that extra step was taken in access to justice should be enabled. And ultimately, what it means is that there there would need to be a justification for temporary accommodation, and that their assessment of that the intensity of the viewer, and that would be whether or not it's reasonable. And often what you'll see as policies and implementation is not reasonable, which requires immediate steps to be taken to fix it.

**Mhairi Snowden** 38:23

Yeah, thanks for that is, is really, really helpful. On there's a question here about some councils in Scotland are not currently meeting their disaster agencies in relation to homelessness services, and no action appears to be being taken in terms of accountability. How confident can we be incorporation will ensure rights are actually realised? Yeah,

38:51

I mean, that's a really important point. This is the rate at the writer housing in Scotland is actually already a statutory date. Under the homelessness Scotland Act 2003. So when someone presents as homeless, they have a right to house and that's an immediate rate already exists in law. So the difference that properly embedding this framework would mean is that it the remedy component would would be fixed. So at the moment that meds for someone who's homeless today's a judicial review, which is a very cumbersome legal process, and my understanding and practices, what will sometimes happen is if that person manages to get access to sufficient ad base, the letter to the council may prompt that response if a judicial review is threatened. That's not That's not good enough, that's not access to an adequate and effective remedy. So actually, the system needs to change to ensure that access to justice is more easily realisable. So what you what you see and, and systems which do those those routes to remedy is that, for example, even in England at the moment, the housing Ombudsman has been more proactive and investigating more than them, particularly in relation to these temporary accommodation cases. And systematically seeing this is a problem. Often what we'll call authorities or landlords will see as though this is individuals and individuals use of the house and place the blame back onto the individual. But what that Ombudsman has done is opened up the door and said, No, this is actually systematic, and it's apply across the board. And it's the fault of the landlord, and we need the landlords to respond and fix this. And so what they do, at the very least, is make that injustice visible and make it collective and make the claims realisable across the board, even though it might still take some time to fix it's a step. And so you need assembler response to homelessness or recognition that this is this has been ignored or systematically ignored across the board. And that's not good enough. And actually, there was a question and then a bit the housing regulator I think there was our investigation into practice it in less than a kilometre alone alongside courts, ombudsman and mobile complaints mechanisms should all be seeking turned fulfilled at all of the time. So at the moment, the regulator is not under a duty to apply this lens is not under a duty to say, well, what is the right to adequate housing and as it being met, so incorporating the humane bill and the UN CRC Act should automatically make regulators take that into account as part of their their day to day practice. And that's another important place where remedies might happen.

**Mhairi Snowden** 41:45

Thanks. Can I just we'll just over by a couple of minutes, maybe. But can I combine to the questions which are around affordability. So what about in order for all kinds of housing to reach an adequate standard rents would then have to be used an unaffordable level. So in this case with the Scottish Government due to either a need to fund the necessary upgrades instead of tenants and kind of similar in a way is considering the majority of council budgets already been set? Has Scottish Government stated any way of fixing current Council stock of housing or building social housing without posting current tenants or potential new tenants due to the rent? You know, almost like Where would the money has come from? And is it fine for the money just come by picking rents up as it was either national or local budgets? Do you have any reflections without I know, you can't speak to the exact detail of Scottish Government plans. But any reflections on how that relates to that right to adequate housing?

42:41

Yeah, so the title housing requires states which may be through, like actual budget at the national level, to gather and deploy the maximum available resources of the states. That means setting progressive tax measures across the state to fulfil its rates, and all different areas, because they're all intimately related. And it can be quite a complex framework. And there are so so that so in one sense, like the budgets budget to the decision making is absolutely fundamental to dates fulfilment, but it needs to be looked at as a whole. And you can understand where at local levels, if there's not enough money and no other means of raising it, you're going to end up in a situation where you don't have enough money to fulfil rates. So a human rights framework or the lens applied to that would investigate and interrogate what's gone wrong, where, when else could this money be come from, and ultimately, ask the state to justify its approach all the way up to state budget level, all the way down to local authority level, you can't delegate functions and then not delegate the money to fulfil them. And the same way you can't delegate rates compliance, and they're not enough money to provide for them. So. So rather than me give an example of how that problem will be fixed, what I would say is that in reflecting on the international human rights framework, what it would tell us is that states need to gather enough resources, that doesn't necessarily mean through just one mechanism, we need to think about all the different ways that that could happen. And then they need to prioritise the most last most the need to fulfil the rights. And, ultimately, and this is probably part of where the biggest gap is. And you see this again, in other countries, one of the biggest cases when the right to adequate housing was in South Africa. And the problem was, there was no plan. There was no plan at state level, there was no policy that was that this that the state could provide and see. Here's our approach overtime, Mike, we can do this tomorrow. But we can do this over the next few months. We can do this over the next few years. And immediately what we'll try and do tomorrow is this so you had some steps in place. And that's where the biggest gap is because actually what what him those that are trying to work out whether or not there's rates complaints or not, is the need to see that plan and then have an opportunity to assess it, and then have an opportunity to challenge it. And then, and then the decision maker estate has an opportunity to respond and justify. And if that justification is not reasonable, according to the test of reasonableness in international law, then it's a breach of the rate. So the most important part of that is to actually have a feasible and reasonable plan in place, which is often what's missing, because at the moment, there's no requirement to have that.

**Mhairi Snowden** 45:42

Thanks. And I am very aware that we could actually go on and discuss detail all afternoon, if not all week, actually. And actually, maybe it would be helpful for the consortium to have a bigger event potentially hybrid around the right to hosting. So for those on the call, if that's something that you would find really useful, then do drop us a line and let us know because there's a lot of detail. I think what is and it helps us to remember that one of the principles of economic social rights, including rotating is no one left behind that it's you got to have a plan to improve things not just for some but for all of us, and particularly for those who are often ignored. So all that huge thanks to Katie for taking these questions when Yeah, so thank you everybody, for joining us. And thanks again and see and hope everyone has a good day.

46:42

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