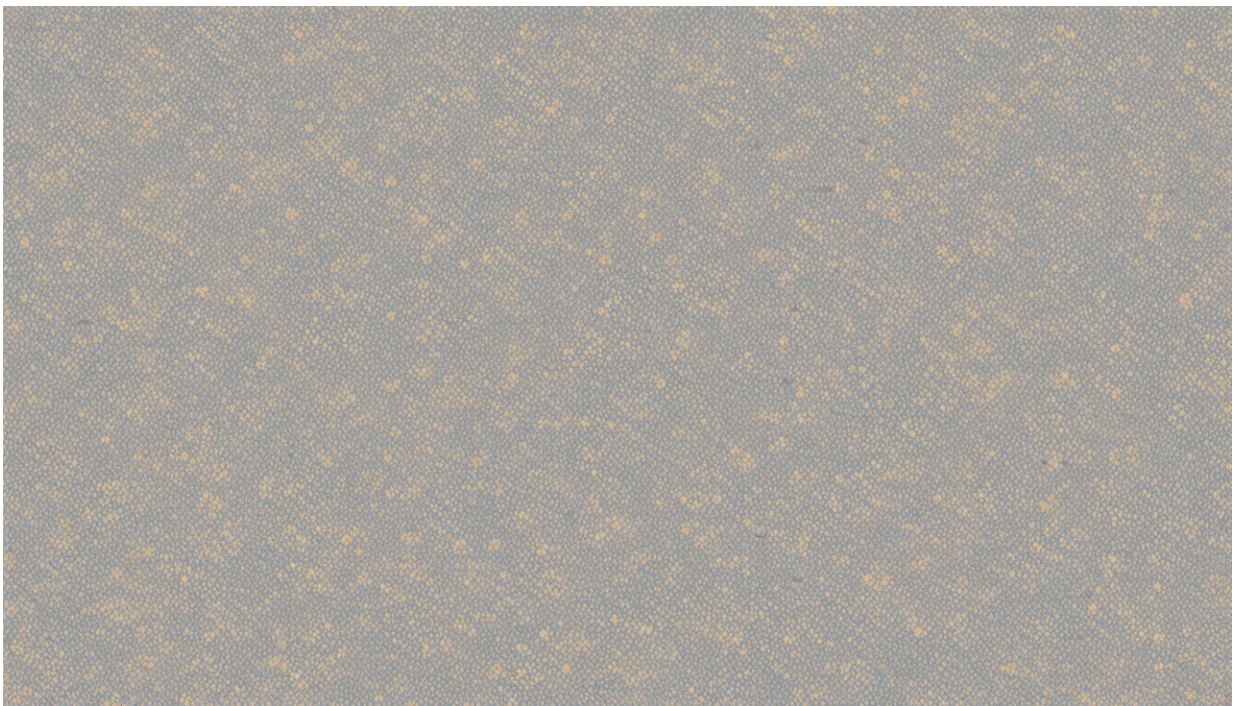


# Rights that protect against socioeconomic disadvantage are long overdue – the UK is already paying the price

December 10 2018, by Peter Roderick And Allyson Pollock

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Credit: AI-generated image ([disclaimer](#))

In 2018, two anniversaries and a crucial decision loom large in the UK. We saw in the 70th anniversary of the NHS in July, while December 10 marks the 70th birthday of the adoption of the [Universal Declaration of Human Rights](#) by the United Nations. On December 11, the UK

parliament will also vote on the prime minister's EU withdrawal deal. The coming together of health, human rights and Brexit, raises questions of huge practical and constitutional significance.

The recent UK visit of Philip Alston, UN special rapporteur on extreme poverty and human rights, highlighted the effects of government policies on [austerity and universal credit](#). Life expectancy rises [have stalled](#), infant and neonatal mortality rates [have risen](#), and 4.5m children [are living in poverty](#).

Human rights are constitutionally important in constraining what politicians and public bodies can do, and they can necessitate action. Government must not, for example, interfere with enjoyment of rights and must even prevent third parties, such as private companies, from doing so. In the UK's system of parliamentary supremacy, human rights can always be taken away. But incorporating human rights into UK law – as the [Human Rights Act](#) (HRA) does with the rights to life, a fair trial, and the prohibition of torture, from the [European Convention on Human Rights](#) – makes this politically more difficult and controversial.

The HRA itself is [not affected by Brexit](#) because the law stems from the Council of Europe, a separate organisation to the EU.

However, Brexit will directly affect other rights. The EU's [Charter of Fundamental Rights](#), which includes many rights relevant to health and the social determinants of health, and [the special emphasis](#) in EU law on the rights of persons with disabilities, will no longer apply. Brexit would also allow parliament to downgrade, for example, the 24 EU-derived employment rights identified by [the UK Court of Appeal](#).

## **Social rights**

Legal recognition of children's rights has certainly increased but, like

general economic and social rights – such as the rights to health, to an adequate standard of living, including food and housing, to [social security](#) and to just and favourable working conditions – they have never been guaranteed in UK law as human rights. This is despite the UK having accepted UN treaties recognising these rights in [1976](#) and [1991](#), respectively.

Many of these rights were also accepted by the UK as long ago as 1962 in the Council of Europe's [European Social Charter](#). However, Colm O'Conneide, former vice-president of the charter's monitoring body, [recently wrote](#) that there were "substantial defects in how the fundamental social rights set out in the charter are implemented within [UK] national law and policy", with "serious failings ... which in some circumstances have persisted for decades".

In England, a public sector duty to reduce inequalities that result from socioeconomic disadvantage – [enacted in the final days](#) of the Gordon Brown Labour government – has still not been brought into effect. Theresa May, when minister for women and equalities, described it in 2010 as "[ridiculous](#)".

Scotland has a slightly better story to tell. The duty was brought into effect there [from April 2018](#). The human right to social security was at least recognised as a principle [in June 2018](#), and recommendations of the Scottish first minister's [Advisory Group on Human Rights](#), due on December 10, are expected to suggest how social rights could be put into domestic law in the country.

The dismantling of the postwar welfare state, and outsourcing of health, social care, water and other public services to [private companies](#) has been an incremental process over several decades.

Policies such as the [private finance initiative](#) have brought into sharp

focus the transfer of wealth, degrading work conditions and the creation of a two-tier workforce. If economic and social rights had been put into UK law as [human rights](#), then eroding the legal basis for ensuring the social determinants of health would have been much more difficult.

Entrenching these rights would be no panacea – and ultimately parliamentary supremacy would remain in place – but they would be both a check on how politicians and public bodies exercise their power, and would compel politicians to act. [As Alston said](#), legislative recognition of social rights should be "a central part" of reimagining what the UK represents and how it protects its people post-Brexit. Seventy years is too long to have waited to deliver on the promises of the Universal Declaration. In a divided, alienated, backward-looking "austerity" Britain, the time has come to make good on social rights.

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