

**Written evidence submitted by Professor Fiona de Londras (Professor of Global Legal Studies at COVID-19 Review Observatory, Birmingham Law School, University of Birmingham) and Daniella Lock (Research Fellow at COVID-19 Review Observatory, Birmingham Law School, University of Birmingham)**

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**Executive Summary:**

- Government support to businesses and individuals can play a role in ensuring socio-economic well-being during the pandemic, and in setting the foundations for post-pandemic socio-economic well-being.
- Socio-economic well-being is key to human rights protection.
- Assessing the effectiveness of government support to businesses and individuals requires engagement with the human rights impacts of such interventions.
- The Committee ought to seek evidence specifically on rights-related dimensions to effectiveness, including making arrangements to enable participation by marginalised persons.

**0. Focus of Submission**

0.1 This submission focuses on the following question outlined by the Committee:

How effective is the Government support to businesses and individuals across different regions and sectors? Does the effectiveness of the Government support vary across different regions?

**1. Introduction**

1.1 In its report on *Economic Impacts of Coronavirus: Gaps in Support*, the Committee noted that, while significant, the financial support offered by Government in the form of the Coronavirus Job Retention Scheme (CJRS) and Self-Employment Income Support Scheme (SEISS) had not avoided a situation in which “many people continue to endure financial hardship whilst being unable to benefit from the Government’s two principal support schemes”, and urged the Government to “do whatever it takes to protect people from the economic impact of coronavirus”.<sup>1</sup>

1.2 We note that taking such steps is not merely a matter of economic and fiscal policy and necessary for the long-time economic outlook for the United Kingdom, but also critical to the protection of human rights in line with the United Kingdom’s international and domestic legal obligations.

1.3 The United Kingdom is a party to the International Covenant on Economic, Social and Cultural Rights.<sup>2</sup> The extent to which government interventions work to protect individual rights, and particularly those rights most implicated in situations of poverty, is a critical factor when considering the effectiveness of those interventions. We draw the Committee’s attention to the statement of the UN Committee on Economic, Social and Cultural Rights to the effect that:

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<sup>1</sup> House of Commons Treasury Committee, *Economic Impact of Coronavirus: Gaps in Support*, Second Report of Session 2019-21 (2020). HC 454, p.p. 3-4.

<sup>2</sup> The United Kingdom ratified the Covenant in 1976.

The pandemic has profoundly negative impacts on the enjoyment of economic, social and cultural rights, especially the right to health of the most vulnerable groups in society....States parties are under an obligation to take measures to prevent, or at least to mitigate, these impacts. Nevertheless, if States do not act within a human rights framework, there exists a clear risk that the measures taken might violate economic, social and cultural rights and increase the suffering of the most marginalized groups.<sup>3</sup>

1.4 Taking the UK's international human rights law obligations into account, effectiveness ought to be considered by this Committee not only as a matter of fiscal and economic effectiveness, but also as a matter of socio-economic rights protection. Announcing extended financial supports to the House of Commons on 22 October 2020, the Chancellor of the Exchequer noted that financial support would "protect people's jobs....support their incomes and provide their families with security and with hope for the future".<sup>4</sup> Although not framed expressly in terms of human rights, this is a clear acknowledgement of the connections between financial support and socio-economic well-being, and thus gestures at the connections between these financial interventions and the protection and fulfilment of human rights.

## 2. Socio-Economic Rights in the COVID-19 Pandemic

2.1 The COVID-19 pandemic has immediate and likely long-term consequences for socio-economic rights including, but going beyond, the right to health. These consequences stem from both the pandemic's direct impact on health systems, the economy, unemployment, and experiences of poverty, and its indirect impacts including on longer-term individual participation in the labour force, funding of essential services (including health services), and the local impacts of changes to the global economy. The pandemic also has particular effects on children, including rights-related impacts flowing from family poverty.<sup>5</sup>

2.2 Experiences of these direct and indirect impacts of the pandemic on socio-economic rights are partly determined by, and reflective of, pre-existing inequalities in socio-economic well-being. For example, this is reflected in the mortality rates from COVID-19, which have been more than double in the most deprived areas than in the least deprived areas.<sup>6</sup>

2.3 The pandemic and responses to it are thus likely to reinforce existing, and may produce new, inequalities.<sup>7</sup> The pandemic and responses to it may exacerbate socio-economic

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<sup>3</sup> UN Committee on Economic, Social and Cultural, Rights, "Statement on the coronavirus disease (COVID-19) pandemic and economic, social and cultural rights", UN Doc. E/C.12/2020/1, para. 2.

<sup>4</sup> Hansard, House of Commons Debates, 22 October 2020, Column 1252.

<sup>5</sup> See UN Committee on the Rights of the Child, Statement on COVID-19, 8 April 2020. See also Aoife Nolan and Judith Bueno de Mesquita, "Of Limitations and Retrogression: Assessing COVID-19's Impact on Children's ESC Rights", *The Global Initiative for Economic, Social and Cultural Rights*, 26 May 2020.

<sup>6</sup> See Public Health England, *Disparities in the risk and outcomes of COVID-19* (August 2020), p. 32. Deprivation in this context is classified using the Index of Multiple Deprivation and encompasses a wide range of aspects of an individual's living conditions including income, employment, education, health, crime, housing and the living environment. Deprived areas can be found in both urban and rural areas of England.

<sup>7</sup> For example, while millions of people in the UK have now fallen into debt (including 6 million being behind on household bills (Citizens Advice, *Excess Debts: Who Has Fallen Behind on their Household Bills Due to Coronavirus* (2020)), many households have been able to increase their savings due to maintaining their income and decreasing their expenditure (Bank of England, "How Has COVID-19 Affected the Finances of UK Households?", 25 August 2020. (<https://www.bankofengland.co.uk/bank-overground/2020/how-has-covid-19>).

hardships produced by and in the wake of the Global Financial Crises and resultant austerity measures,<sup>8</sup> and those related to structural racism and discrimination on the basis of disability.

2.4 In order to ensure that state responses to the pandemic address, account for, and do not exacerbate the pandemic's negative effects on socio-economic rights, human rights considerations ought to be part of the design of financial and economic interventions, and should be taken into account when reviewing the impacts and the in/effectiveness of such interventions. As made clear by the UN Committee on Economic, Social and Cultural Rights:

States parties are under an obligation to devote their maximum available resources to the full realization of all economic, social and cultural rights, including the right to health. As this pandemic and the measures taken to combat it have had a disproportionately negative impact on the most marginalized groups, States must make every effort to mobilize the necessary resources to combat COVID-19 in the most equitable manner, in order to avoid imposing a further economic burden on these marginalized groups. Allocation of resources should prioritize the special needs of these groups.<sup>9</sup>

2.5 We recognise that, through its interventions to support persons and businesses financially, the Government has taken important steps to enable compliance with pandemic-related restrictions (by reducing financial imperatives to engage in risk-laden work) and thus to protect the right to health,<sup>10</sup> as well as other socio-economic rights including the right to favourable conditions of work,<sup>11</sup> and the right to an adequate standard of living.<sup>12</sup>

2.6 However, as already noted by this Committee, these supports were necessarily designed and rolled out quickly, and gaps in protection have become apparent.<sup>13</sup> It is also likely that, as the pandemic develops and changes, and as the full scale of its economic impacts begin to become clear, further gaps and needs may become apparent to which a government response is required. In designing and executing such responses, and in any possible amendments to existing supports, possible impacts on human rights ought to be considered and rights-protection should be given sufficient weight as a factor in the design and review of any such interventions.

2.7 We note in particular the state's international obligation to achieve progressively the realisation of rights protected by the International Covenant on Economic, Social and Cultural Rights<sup>14</sup> and the international prohibition on retrogression.<sup>15</sup> The combined effect of

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[affected-the-finances-of-uk-households](#)).

<sup>8</sup> UN Special Rapporteur on Extreme Poverty and Human Rights, "Looking Back to Look Ahead: A Rights-Based Approach to Social Protection in the Post-COVID-19 World" (11 September 2020). Note also the conclusions of the UN Committee on Economic, Social and Cultural Rights on the United Kingdom's 6<sup>th</sup> periodic report on the International Covenant on Economic, Social and Cultural Rights (2016) in which it stated that it was "concerned that the State party has not undertaken a comprehensive assessment of the cumulative impact of such measures on the realization of economic, social and cultural rights in a way that is recognized by civil society and national independent monitoring mechanisms" (UN. Doc E/C.12/GBR/CO/6, para. 18).

<sup>9</sup> Committee on Economic, Social and Cultural, Rights, "Statement on the coronavirus disease (COVID-19) pandemic and economic, social and cultural rights", UN Doc. E/C.12/2020/1, para. 14.

<sup>10</sup> Article 12, International Covenant on Economic, Social and Cultural Rights.

<sup>11</sup> Article 7, International Covenant on Economic, Social and Cultural Rights.

<sup>12</sup> Article 11, International Covenant on Economic, Social and Cultural Rights.

<sup>13</sup> House of Commons Treasury Committee, *Economic Impact of Coronavirus: Gaps in Support*, Second Report of Session 2019-21 (2020). HC 454.

these doctrines is to obligate the state to ensure financial and economic interventions as part of the response to the COVID-19 pandemic further the realisation of, and do not have the design or effect of reducing, the protection and enjoyment of socio-economic rights.

### 3. Conclusion: Effectiveness and Human Rights

3.1 The Committee has sought views on the effectiveness of Government support to businesses and individuals. Following from the preceding sections, we submit that full consideration of effectiveness requires engagement with questions of rights. In particular, it requires a consideration of the extent to which the government's support to business and individuals has

- (a) Been sufficient to protect people from falling into poverty;<sup>16</sup>
- (b) Had the design or effect of alleviating, exacerbating, or leaving unchanged pre-existing socio-economic inequalities;<sup>17</sup>
- (c) Had the design or effect of producing inequalities;<sup>18</sup>
- (d) Been appropriately accessible to marginalised persons or persons for whom accessing government support can be challenging, including persons with disabilities;<sup>19</sup>
- (e) Been adapted in response to rights-related gaps or shortcomings that have been identified by, *inter alia*, civil society, independent agencies, and Parliamentary inquiries.

3.2 We urge the Committee to take account of the findings of the Joint Committee on Human Rights, although we note also that the Committee's report on *The Government's Response to COVID-19: Human Rights Obligations* did not engage with the full range of implications for socio-economic rights.<sup>20</sup> We stress that questions of rights-related impacts

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<sup>14</sup> Article 2(1), International Covenant on Economic, Social and Cultural Rights.

<sup>15</sup> Committee on Economic, Social and Cultural Rights, *General Comment No 3: The Nature of States Parties Obligations*, 14 December 1990, at para 9; Committee on Economic, Social and Cultural Rights, *General Comment No 13: The Right to Education*, 8 December 1999, at para 45.

<sup>16</sup> We note the IPPR's commissioned research forecasting effects on poverty including the effects of ending some financial support (since extended). The forecasted effects include significant increases in child poverty, disproportionate impacts on persons from BAME backgrounds, and a central scenario forecast of 1.1 million additional adults going below the poverty line: Henry Parkes and Clare McNeil, *Estimating Poverty Impacts of Coronavirus: Microsimulation Estimates* (June 2020). We note also the fact that using the 'poverty line' to estimate poverty provides a relatively unsophisticated measure that does not account fully for experiences of 'deep poverty'. See further, Daniel Edmiston, "The depth and profile of UK poverty has changed considerable—official statistics must start capturing this reality amidst COVID-19", *LSE British Politics and Policy Blog*, 18 August 2020 (<https://blogs.lse.ac.uk/politicsandpolicy/depth-and-profile-of-uk-poverty/>).

<sup>17</sup> On the interactions between COVID-19 and pre-existing inequalities see Richard Blundell, Monica Costa Dias, Robert Joyce, Xiaowei Xu, *COVID-19 and Inequalities* (2020; Institute for Fiscal Studies).

<sup>18</sup> *Ibid.*

<sup>19</sup> ONS research reveals significant concern on the part of disabled people with the financial impact of the COVID-19 pandemic on their lives. At the time of writing the latest data were at Office of National Statistics, "Coronavirus and the social impacts on disabled people in Great Britain: September 2020" (<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/articles/coronavirusandthesocialimpactsondisabledpeopleingreatbritain/september2020>)

<sup>20</sup> Joint Committee on Human Rights, *The Government's Response to COVID-19: Human Rights Implications*, 7<sup>th</sup> Report of Session 2019-21. HC 265. The report engages extensively with civil and political rights, the right to health (Chapter 4), and the right to education (Chapter 7), but less so with socio-economic well-being,

are not limited to the Joint Committee on Human Rights or other dedicated human rights-fora. Rather, they are relevant to the work of all of Government and, thus, to all parliamentary entities engaged in ensuring accountability for, effectiveness of, and legitimacy of Government action, including its responses to the COVID-19 pandemic. Reviews and inquiries that fail to take rights-implications into account risk missing an important part of the analysis of the in/effectiveness of pandemic responses, including financial and economic interventions.

3.3 We respectfully submit that the Committee ought to seek evidence on the rights-related impacts of the Government's support to businesses and individuals in order to make a comprehensive assessment of effectiveness. We especially note the importance of enabling full participation in such inquiries, particularly given the internationally protected right to equal participation in public affairs.<sup>21</sup> This ought to include ensuring the accessibility of its inquiries for persons with disabilities,<sup>22</sup> those for whom English is not a first language, and those less accustomed to engaging with formal processes of this kind.

## **About Us**

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The **COVID-19 Review Observatory** is a UKRI-funded research initiative located at Birmingham Law School, University of Birmingham. It tracks, assesses, and engages with parliamentary reviews of responses to the COVID-19 pandemic with a view to ensuring effective consideration of rights protection, and to enhancing accountability and legitimacy by supporting parliamentary review. A key part of its work is participating in such reviews by, for example, submitting to committee inquiries.

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poverty, and the right to an adequate standard of living.

<sup>21</sup> Article 25, International Covenant on Civil and Political Rights.

<sup>22</sup> Article 29, Convention on the Rights of Persons with Disabilities.