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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.
- Judging what lessons can be learnt from past approaches, including to improve future responses to crises, requires engagement with the human rights impacts of such interventions.
- The Committee ought to seek evidence specifically on rights-related dimensions of the economic impact of COVID-19, including the right-related dimensions of the pandemic's economic impact on particularly vulnerable social groups.

Focus of Submission

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

What lessons can be learnt from the different approaches undertaken by the nations in the UK to combatting the coronavirus?

What improvements can be made to institutions to ensure that responses to crises like these are more robust in the future and policy makers have the data they need? What further analysis should the Government do and make transparent?

1. Economic impact of COVID-19 as a matter of human rights protection

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”.¹

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 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.

1.3 The United Kingdom is a party to the International Covenant on Economic, Social and Cultural Rights.² 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:

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.³

1.4 Taking the UK’s international human rights law obligations into account, the economic impact of coronavirus should not only be considered by this Committee 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”.⁴ 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.

1.5 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 Rights⁵ and the international prohibition on retrogression.⁶ The combined effect of 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.

2. Learning lessons from the different approaches undertaken by the nations in the UK to combatting the coronavirus

2.1 Learning lessons from the different approaches undertaken by the nations in the UK to combatting the COVID-19 pandemic requires an examination of the immediate and likely

² The United Kingdom ratified the Covenant in 1976.

³ 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.

⁴ Hansard, House of Commons Debates, 22 October 2020, Column 1252.

⁵ Article 2(1), International Covenant on Economic, Social and Cultural Rights.

⁶ 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.

long-term consequences for socio-economic rights. 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.⁷ Experiences of these direct and indirect impacts 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 those in the least deprived areas.⁸

2.2 The pandemic and responses to it are likely to reinforce existing, and may produce new, inequalities.⁹ The pandemic and responses to it may exacerbate socio-economic hardships produced by and in the wake of the Global Financial Crises and resultant austerity measures,¹⁰ and those related to structural racism and discrimination on the basis of disability. 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, for the purpose of learning lessons from these 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.¹¹

⁷ 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.

⁸ See Public Health England, *Disparities in the risk and outcomes of COVID-19* (August 2020), p32. 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, *ibid*.

⁹ 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-affected-the-finances-of-uk-households>)).

¹⁰ 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 6th 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).

¹¹ 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.

2.4 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,¹² as well as other socio-economic rights including the right to favourable conditions of work,¹³ and the right to an adequate standard of living.¹⁴

2.5 However, as already noted by this Committee, these supports were necessarily designed and rolled out quickly, and gaps in protection have become apparent.¹⁵ 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 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.

2.6 We further note that in recent months, it has become clear that gaps in protection of those economically impacted by the pandemic are having a disproportionate impact on particular social groups. For example, we note the recent TUC report which has found that the Government's COVID-19 policies have particularly affected mothers who work outside the home due to a lack of access to furlough schemes, as well as a lack of paid parental leave.¹⁶ The report finds that twenty-five percent of women surveyed are currently using their annual leave to manage their childcare, while seven percent of women are taking unpaid leave from work and receiving income.

3. What improvements can be made to institutions to ensure that responses to crises like these are more robust in the future and policy makers have the data they need? What further analysis should the Government do and make transparent?

3.1 Integrating human rights analysis into Government policies on the economic impact of COVID-19, and into parliamentary oversight of those policies, will contribute positively to ensuring enhanced robustness of institutions and, accordingly, preparedness for future pandemic or analogous events.

3.2 Of particular importance for improving the Government's response in future crises is for it to engage in a structured human rights analysis that explicitly considers whether its economic response has:

- (a) Been sufficient to protect people from falling into poverty^{17,18}

¹² Article 12, International Covenant on Economic, Social and Cultural Rights.

¹³ Article 7, International Covenant on Economic, Social and Cultural Rights.

¹⁴ Article 11, International Covenant on Economic, Social and Cultural Rights.

¹⁵ House of Commons Treasury Committee, *Economic Impact of Coronavirus: Gaps in Support*, Second Report of Session 2019-21 (2020). HC 454.

¹⁶ TUC, 'Working mums: Paying the price' (14 January 2021) (<https://www.tuc.org.uk/workingparents>).

¹⁷ Including different indices for measuring poverty, including relative and absolute poverty.

¹⁸ 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).

- (b) Had the design or effect of alleviating, exacerbating, or leaving unchanged pre-existing socio-economic inequalities;¹⁹
- (c) Had the design or effect of producing inequalities;²⁰
- (d) Been appropriately accessible to marginalised persons or persons for whom accessing government support can be challenging, including persons with disabilities;²¹
- (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.

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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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/>).

¹⁹ 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).

²⁰ *Ibid.*

²¹ 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>)