

**COVID-19 Review Observatory, Birmingham Law School, University of Birmingham**

Profesor Fiona de Londras, Dr Pablo Grez Hidalgo and Daniella Lock

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## **Executive Summary**

- As the Committee which ‘examines the value for money of Government projects, programmes and service delivery’ and ‘holds government officials to account for the economy, efficiency and effectiveness of public spending’, the Public Accounts Committee (PAC) has a legitimate role in assessing the extent to which the Government is fulfilling its human rights obligations in the expenditure of public funds.
- The Culture Recovery Fund (CRF) is a policy initiative which is essential for the protection of the right to cultural enjoyment in the UK.
- The Committee ought to consider the human rights implications of the manner in which the CRF is distributed. In particular, the fund should be distributed in a manner which protects the right to non-discrimination.

## **1. Human rights and the Public Accounts Committee’s remit**

**1.1** We note that the remit of the PAC is the ‘examination of the accounts showing the appropriation of the sums granted by Parliament to meet the public expenditure, and of such other accounts laid before Parliament as the committee may think fit’.<sup>1</sup> We submit that integrating human rights considerations into the Committee’s work is within its remit.

**1.2** International human rights obligations and obligations under the Human Rights Act 1998 apply to all government activity, including the arrangement of public expenditure. In practice, this means that in making resource-allocation decisions, including decisions about the funding of local authorities which have rights-filling roles including in social care and

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<sup>1</sup> Rule 148 (1) Standing Order

housing provision, the Government is expected to take into account its human rights obligations, including especially obligations to respect, protect, and fulfil rights like the right to equality and non-discrimination, the right to life, the right to health, the right to education, and the right to food.

**1.3** As the Committee which ‘examines the value for money of Government projects, programmes and service delivery’ and ‘holds government officials to account for the economy, efficiency and effectiveness of public spending’, the PAC has a legitimate role in assessing the extent to which the Government is fulfilling its human rights obligations in the expenditure and arrangement of public funding.<sup>2</sup> Indeed, doing so is integral to assessing the effectiveness of public expenditure, as effectiveness must encompass successfully discharging legal obligations, including human rights obligations. As courts generally exercise deference in respect of government expenditure, Parliament and its committees play a critical role in ensuring accountability for public expenditure including for its human rights implications. The Public Accounts Committee is critical to that accountability and scrutiny work. Our submission surfaces a number of human rights considerations relevant to the Committee’s inquiry on ‘Covid-19: Local Government Finance’ in order to assist the Committee in integrating human rights analysis in its inquiry.

## **2. The CRF and the right to cultural enjoyment**

**2.1** We all have the right to cultural enjoyment, contained in Article 27 of the Universal Declaration of Human Rights. Article 27 states that ‘everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits’. As has been recognised by UN Committee on Economic, Social and Cultural Rights, cultural rights are ‘inseparable’ from human rights and fundamental to human dignity and identity.<sup>3</sup>

**2.2.** The right to cultural enjoyment continues to apply during and beyond the pandemic. Yet, as recognised by the UK Government, many organisations which facilitate cultural enjoyment in the UK are currently at risk of financial failure due to the impact of the pandemic. For example, in the Art Fund’s survey of museums, galleries and historic house, sixty percent of respondents say they are facing an ‘existential threat’.<sup>4</sup> UK Music reported that musical artists are losing two-thirds of their income as a result of COVID-19, and that music revenues will have fallen by 85% in 2020.<sup>5</sup> As the Committee will know, the threat posed by COVID-19 to the culture sector in UK follows a world-wide trend, which the UN Committee on Economic, Social and Cultural Rights has urged policy-makers to respond to with targeted policies and action.<sup>6</sup>

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<sup>2</sup> Description of the Public Accounts Committee provided on the Committee webpage: <https://committees.parliament.uk/committee/127/public-accounts-committee/>.

<sup>3</sup> 2001 *UNESCO* Declaration on Cultural Diversity.

<sup>4</sup> Lanre Bakare, ‘UK museums and galleries fear Covid poses existential threat’ *The Guardian* (19 November 2020) available at: <https://www.theguardian.com/culture/2020/nov/19/uk-museums-and-galleries-fear-covid-poses-existential-threat>.

<sup>5</sup> Mark Savage, ‘Musicians will lose two-thirds of their income in 2020’ *BBC News* (18 November 2020) available at: <https://www.bbc.co.uk/news/entertainment-arts-54966060>.

<sup>6</sup> ‘Culture in crisis: Arts fighting to survive COVID-19 impact’ *UN News* (22 December 2020) available at:

**2.3.** To assist states in formulating their responses to the crisis of the culture sector, the UN Committee on Economic, Social and Cultural Rights has developed a resource for Governments entitled ‘Culture in Crises: A Policy Guide for a Resilient Creative Sector’.<sup>7</sup> The recommendations include providing financial support for the sectors of the cultural and creative industries.<sup>8</sup> In this respect, the CRF provided by the UK Government is very welcome indeed and plays an important role in the UK discharging its human rights obligations.

**2.4.** While the CRF is welcome in principle, we would like to draw the Committee’s attention to the wealth of other recommendations made in the UN Committee on Economic, Social and Cultural Rights’ Policy Guide. We hope that the Committee will examine this Guide thoroughly to determine whether the Government could follow more of its recommendations and provide additional funds or concessions to provide effective support for the culture sector in the UK. For example, the Policy Guide recommends investment by Government in skills development programs for artists and cultural and creative associations.<sup>9</sup> The Guide also provides examples of good practice where governments across the world have done this.<sup>10</sup> The Guide also makes recommendations to provide creative and cultural industries with relief from taxes and other social charges, as well as providing examples of Government’s doing this.<sup>11</sup> Whether the UK Government can pursue policies such as these is an issue the Committee ought to consider as part of its examination of the ‘effectiveness’ of the CRF.

### **3. Human rights implications of the distribution of the CRF**

**3.1** In discharging its functions while distributing the CRF, the Government is obliged to ensure that individuals do not experience discrimination.<sup>12</sup> We suggest that the Committee ought to consider the extent to which the right to non-discrimination has been factored to decisions as to the allocation of the CRF. Furthermore, we submit that the PAC should question whether the support provided by the CRF was tailored to ensure support for vulnerable groups and address disproportionate and unevenly distributed impacts of the pandemic. We further submit that the Committee should examine whether the distribution of funding disproportionately impacted on people based on protected characteristics, including race.

**3.2** We note that factoring the right to non-discrimination in distributing the fund will involve examining not only the mainstream cultural contributions such as museum, heritage, music but also smaller, less mainstream and alternative expressions of culture and arts, particularly where they relate to communities with protected characteristics. This is due to the

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<https://news.un.org/en/story/2020/12/1080572>.

<sup>7</sup> UNESCO, ‘Culture in crisis: policy guide for a resilient creative sector’ (2020) available at:

<https://unesdoc.unesco.org/ark:/48223/pf0000374631>.

<sup>8</sup> Ibid, I.3.

<sup>9</sup> Ibid, I.4.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid, II, 6.

<sup>12</sup> Article 4, International Covenant on Civil and Political Rights; Article 14, European Convention on Human Rights.

fact that that these alternative communities are likely to be lacking in representation. For example, the Scottish Equalities and Human Rights Committee has recently highlighted the situation of ‘showpeople’, a particular travelling community composed of about 6,000 people, most of whom operate as family based micro-enterprises, and have seen all their bookings cancelled due to COVID-19.<sup>13</sup> These people, without fixed premises and membership of trade associations, have been excluded from COVID-19 funding. Making efforts to provide funds to communities lacking in representation is essential for the UK Government to discharge its obligations in protecting the right to non-discrimination. Therefore, the Committee should factor this issue into its assessment of the Government’s distribution of the CRF.

## **About Us**

Fiona de Londras is Professor of Global Legal Studies at Birmingham Law School, University of Birmingham. Email: [f.delondras@bham.ac.uk](mailto:f.delondras@bham.ac.uk)

Dr Pablo Grez Hidalgo is a Research Fellow at the COVID-19 Review Observatory, Birmingham Law School, University of Birmingham. Email: [p.grezhidalgo@bham.ac.uk](mailto:p.grezhidalgo@bham.ac.uk)

Daniella Lock is a Research Fellow at the COVID-19 Review Observatory, Birmingham Law School, University of Birmingham. Email: [D.Lock.1@bham.ac.uk](mailto:D.Lock.1@bham.ac.uk)

The **COVID-19 Review Observatory** is a UKRI-funded (AHRC) 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.

## **April 2021**

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<sup>13</sup> Report on the impact of the COVID-19 pandemic on equalities and human rights, SP 966, paras 340-345.