

Submission to the UK Parliament Joint Committee on Human Rights for its inquiry concerning “The Government’s response to COVID-19: human rights implications”

1. This submission is structured in three parts: an introduction to ATD Fourth World; background on the right to respect for family life in the UK today, particularly concerning the impact of poverty; the implications of the Government's response to COVID-19 on this right.
2. We support the submission by the Parents, Families and Allies Network (PFAN).

ATD Fourth World

3. Registered as a charity since 1968, ATD Fourth World UK is a human-rights based organisation working in partnership with people in poverty to promote social justice. “Together in Dignity”, our family support programme for the most vulnerable families, enables them to build upon their strengths, develop support networks and access public services. Through our advocacy work with families in crisis, we foster conditions that allow parents, children and professionals to better understand one another and collaborate.
4. Our “Giving Poverty a Voice” programme empowers people with experience of poverty to express their views and offer solutions to problems affecting their lives while offering policy makers invaluable insight into overcoming poverty from the bottom up. This programme includes our Right to Family Life project, which brings parents living in poverty together with academics and social work practitioners through a series of platforms for dialogue that reflect the needs and concerns of families in poverty while exploring innovative new ideas and proposals for change coming from those working in the child protection system. With the voices and thinking of families with experience of social service intervention at the fore, the project is based on poverty-aware-practice workshops, social work study groups, and engaging with the wider social work and legal fields.
5. In 2019 we ran poverty-aware-practice workshops for social workers: as part of the Royal Holloway, University of London, post qualifying training module; for final year students of social work at Birmingham University; and for the team from the Children’s Social Care Safeguarding Service of the Royal Borough of Greenwich. We were also featured speakers at a United Nations event marking the anniversary of the Convention on the Rights of the Child, and at several British Association of Social Workers’ events including the launch of their Anti-Poverty Practice Guide to which we contributed. In 2018, we were invited to present evidence to the United Nations Special Rapporteur on extreme poverty and human rights. (399 words so far)

The impact of poverty on the right to respect for family life in the UK

6. The United Nations General Assembly states¹:
“The family being the fundamental group of society and the natural environment for the growth, well-being and protection of children, efforts should primarily be directed to enabling the child to remain in or return to the care of his/her parents, or when appropriate, other close family members. The State should ensure that families have access to forms of support in the caregiving role.”

The right to respect for family life is also recognised in other international human rights standards such as the Convention on the Rights of the Child, ratified by the UK in 1991.

7. The European Court of Human Rights notes²:
“Where there is insufficient legislation to protect parental rights, then an adoption decision violates the mother’s right to family life. Similarly, where a child was unjustifiably taken into care and separated from her mother, [...] the natural mother was deprived of adequate

¹ United Nations General Assembly A/RES/64/142, “[Guidelines for the Alternative Care of Children](#)”, 24 February 2010, para. 3.

² European Court of Human Rights 63/137, “[Guide on Article 8 of the Convention – Right to respect for private and family life](#)”, Last update: 31/12/2019, para. 283.

involvement in the decision-making process concerning the care of her daughter and thereby [...] resulting in a failure to respect family life (T.P. and K.M. v. the United Kingdom [GC], § 83). [...] The Court reiterated that authorities have to take measures to facilitate family reunification as soon as reasonably feasible. In this context, it is important that domestic authorities take steps to maintain contact between a child and its biological parents even after its initial removal from their care; and that they rely on fresh expert evidence.”

8. A 2016 study by Prof. Paul Bywaters³ shows that the legal system of child protection has increasingly failed to account for the impact of poverty on family life, instead interpreting difficulties to provide food and clothing in terms of neglect and abuse. This leads authorities to permanently end parental custody when parents are not able to evidence change against highly prescriptive criteria and pressurised judicial time-scales. Families most severely affected by persistent poverty are many times more likely to be subject to social service investigations, subsequent care proceedings and Care Orders; yet the strong link between poverty, care and child protection issues has not been adequately studied.
9. In 2018, an enquiry into adoption commissioned by the British Association of Social Workers, and based on research by the University of Huddersfield, and Royal Holloway, University of London, highlighted the impact of poverty on rates of forced adoption.⁴

"The use of adoption needs to be discussed in the context of wider social policies and their impact on already disadvantaged families and communities. The Enquiry heard of long-standing concerns about the impact of adoption on marginalised sections of society over decades. It also heard concerns about adoption's contemporary use across the UK in the context of wider policy developments such as austerity's impact on public service resourcing, employment, housing and welfare benefits. With child poverty increasing, research evidence⁵ showing that children living in poverty are more likely to be removed from birth families was raised particularly by academics and organisations in this context."
10. Also in 2018, in response to a call from the President of the Family Division of the High Court of Justice, the Care Crisis Review⁶ proposed a strategy for meeting “the crisis in the family justice sector”, calling for:

“an impact assessment of the lack of accessible, early, free, independent advice and information for parents [...] on children in care proceedings or in the care system [...]. The Review encourages Ofsted and Social Care Wales in their inspections and research to take into account the duties on local authorities to support families and to promote children's upbringing within their family”.
11. In our daily work with parents struggling to cope with the damaging effects of poverty, we see them increasingly boxed in. With no budget for early, preventative support, taking children into care is the purported solution when a family lacks the income to make ends meet.
12. Increasing evidence shows that forcibly separating children from parents itself causes lifelong emotional harm.⁷ The undervalued and underfunded system of child protective services can itself be neglectful and harmful to children. Outcomes for care leavers show that having been in care fails to prevent future poverty. Failures of the care system contribute to a traumatic inter-generational legacy where the children of care leavers are in turn removed into care.
13. Children being forcibly and harmfully removed from parents under such circumstances and in such numbers is an egregious violation of human rights.

3 Paul Bywaters, Lisa Bunting, Gavin Davidson, Jennifer Hanratty, Will Mason, Claire McCartan, Nicole Steils (3 March 2016), “[The relationship between poverty, child abuse and neglect: an evidence review](#)”, York: Joseph Rowntree Foundation.

4 Brid Featherstone, Anna Gupta and Sue Mills (2018) “[The role of the social worker in adoption – ethics and human rights: An Enquiry](#)”, British Association of Social Workers.

5 In particular the work of Paul Bywaters et al. and the Child Welfare Inequalities project, “[Identifying and Understanding Inequalities in Child Welfare Intervention Rates](#)”.

6 [Care Crisis Review: Options for Change](#), 2018, London: Family Rights Group, para. 7.

7 Sara Goudarzi (20 June 2018) “[Separating Families May Cause Lifelong Health Damage](#)”, *Scientific American*.

Implications of the Government's response

14. On 24 April 2020, Statutory Instrument 1445⁸ came into force without consultation or scrutiny. These regulations relax or remove local authority's statutory duties to children in care and on the edge of care including safeguards around adoption and foster care proceedings and expected standard of care in children's homes.⁹
15. The lockdown closed child contact centres, where parents had been able to visit their children who are in long-term foster care.¹⁰ In the absence of specific guidance, some centres proposed virtual contact visits. However, take-up has been low, due in some cases to parents in poverty lacking access to smartphones and data.¹¹ Other centres propose only telephone contact, more briefly than previous in-person visits. For example, a couple who shares parental responsibility with foster parents used to see their three children for two hours a month in a contact centre. During lockdown, they have been allowed only one telephone call of 30 minutes, with each child able to speak for less than ten minutes. In other situations, parents have been told that their child's young age would make virtual contact 'meaningless' and it has therefore not been arranged.¹²
16. With family court proceedings taking place remotely, there is grave doubt about how fair and empathetic such hearings can be.¹³ The technical obstacles connecting birth parents, foster carers, solicitors, social workers, and judges remotely are sometimes insurmountable for parents who cannot afford data. During remote hearings, parents cannot be in the same room as their solicitors. In close quarters and with schools closed, some children overhear everything. No one can verify if any party is recording has an uninvited person listening in. A parent not giving evidence becomes completely invisible to all the others. At the end of the hearing, parents who may have lost custody of their children are completely alone without anyone who can offer them empathy or moral support.¹⁴ In some cases, when a child is about to be forcibly adopted, the in-person 'farewell contact' with birth parents and siblings has been replaced with one last virtual contact.¹⁵

21/07/2020

8 Also known as the Adoption and Children (Coronavirus)(Amendment) Regulations 2020.

9 Fiona Simpson (5 June 2020) "[Article 39 Launches Legal Action Against DFE Relaxation of Statutory Duties](#)", *Children and Young People Now*.

10 Heather Saul (7 May 2020) "[Parents were distraught](#)": Child contact centre closures during lockdown are affecting families across the country", *The I News*.

11 ATD Fourth World (18 May 2020) "[Digital Exclusion: Feeling Anxious, Under Pressure, and Bored](#)".

12 ATD Fourth World (3 June 2020) "[Interview With Annie](#)", *Social Work 2020 Under Covid-19 Magazine*.

13 Anonymous circuit judge (7 April 2020) "[Remote Justice: A Judge's Perspective](#)", *The Transparency Project*.

14 Diana Skelton (22 May 2020) "[Covid-19 is tearing vulnerable families apart – the scars will last longer than the pandemic](#)", *MetroUK*.

15 Louise Tickle (9 July 2020) "[The Reckoning: Young Lives in Lockdown](#)", *Tortoise Media*.