

Comments on the UK Government's 5th Periodic Report under the International Convention on Economic Social and Cultural Rights, July 2007

Oxfam works to overcome poverty and inequality all over the world including in the UK. We develop projects with people living in poverty that improve their lives and show others how things can change. We raise public awareness of poverty to create pressure for change. And we work with policymakers to tackle the causes of poverty.

Oxfam's commitment to Economic Social and Cultural (ESC) rights

OXFAM believes that ESC rights are an essential element of a rights-based approach to development, which is our fundamental vision, and of anti-poverty work. Our experience working across the UK with poor and marginalised groups and communities is that people experiencing poverty frequently lack access to a range of economic and social as well as civil and political rights.

We comment on the 5th Periodic Report on the basis of our programme work. This includes work with partners on the ability of people experiencing poverty to have a decent standard of living and make a sustainable livelihood, to live a life free from discrimination and have their rights to gender and race equality respected, and the right of asylum seekers be free from destitution and live in dignity. Our response is made on the basis of that experience, and also of making submissions, both on our own behalf and with other organisations, to bodies on issues of rights as diverse as gender and race equality, and the rights of asylum seekers and migrant workers.

ESC rights are an essential foundation of UK citizenship, alongside civil and political rights. Poverty, social exclusion and discrimination are a denial of human rights, and in order to tackle these issues effectively, it is essential to develop a broader ESC rights framework for public policy in the UK. This would be a crucial step towards ensuring that opportunities are available to all to participate in society on an equal basis.

Poverty and social exclusion

There is a crucial need for a focus on ESC rights, as evidenced by the persistence of poverty in Britain. 11.4 million people lived in households below the income threshold of 60% of median income in 2005.¹ The poverty rate of Britain's minority ethnic groups stands at 40%, double the 20% found amongst white British people². Inequality is also on the increase. Income and wealth inequality was greater at the start of 21st century than at any time in the last fifty years³. The wealth of the poorest 50% shrank from 10% in 1986 to 5% in 2002⁴.

¹ [Monitoring poverty and social exclusion in the UK \(2005\)](#), Joseph Rowntree Foundation

² [Poverty rates among ethnic groups in Great Britain \(2007\)](#), Palmer and Kenway, Joseph Rowntree Foundation

³ [Inequality and the State \(2004\)](#), John Hills

⁴ Office for National Statistics, [Social inequality in Britain](#), 2004

We welcome the government's response to the International Committee's request for more action on poverty and social exclusion⁵. We acknowledge the value of the Social Exclusion Task Force (SETF) in tackling the experience of deep and entrenched exclusion⁶. However, recent evidence about the nature and extent of poverty demonstrates that while targeting is important, there are significant areas that fall outside the SETF remit, including working age poverty, and asylum seekers facing destitution⁷. While recognising the progress that has been made since 1999 against targets for the reduction of child poverty (paragraph 118), the level of child poverty in the UK is still inexcusable. Recent research by the Joseph Rowntree Foundation and by the Institute for Fiscal Studies shows that meeting the 2010 target needs an investment of £4 billion. Meeting the 2010 target also requires tackling the causes of women's poverty, as the well-being of children cannot be divorced from that of their parents – particularly their mothers.⁸ We urge the government to report on the need for more action to tackle hardship amongst those whose rights are least likely to be respected, and whose responsibilities are repeatedly cited despite the difficulties they have in meeting them, due to poverty and exclusion: those working on low incomes, families with disabled children or parents and ethnic minority families.

Labour rights as economic rights

Clearly 1 in 5 of the population of the UK are a very long way from being able to maintain an adequate standard and quality of life. A combination of low wages and insufficient benefit levels means these people are being denied their economic rights. The Government has stated its commitment to tackling poverty and social exclusion. This is an urgent matter for one of the richest countries in the world, at the start of the 21st century. We believe that the Government should set out commitments to ensure that people at all stages of life have a right to a decent adequate income.

Much of Oxfam's work is about upholding and increasing the rights of vulnerable workers, including agency workers, migrant workers and home workers, and we are concerned that often they do not receive the minimum wage. We know from our programme that migrant workers often do not know what their rights are, and their rights to information about entitlements, such as the minimum wage, holiday entitlement, statutory rights at work including health and safety, are frequently not respected. We urge the government to report on the need for stronger measures to enforce the minimum wage, establish a Fair Employment Commission and introduce new rights for vulnerable workers. We urge the government to introduce legislation to give agency workers parity with directly-employed workers, including an entitlement to equal treatment on pay, holidays and hours. We would suggest the Government make reference to vulnerable workers in its report, and to work towards ensuring that that employment is safe, secure and fairly-paid, and that the economic rights of workers are respected.

The benefits system and economic and social rights

Oxfam believes policies to increase participation in the labour market should help people overcome barriers rather than increase the conditionality of benefits. Those moving into work must be able to be sure of a secure predictable income which lifts them out of poverty, alongside support to make the most of their skills and help them progress to better-paid jobs. This should involve tackling the particular and additional

⁵ Paragraph 37 of its concluding observations on the 4th UK Periodic Report

⁶ Paragraph 116 of the 5th Periodic Report

⁷ Policies towards poverty, inequality and exclusion since 1997, Centre for the Analysis of Social Exclusion

⁸ Women's and children's poverty: making the links (2005) Women's Budget Group

barriers to entering the labour market experienced by the poorest women, minority ethnic groups, and parents with disabled children.

The economic social and cultural rights of asylum seekers

The UK Government report's references to the ESC rights of asylum seekers are inadequate. Asylum seekers continue to experience serious abuses of their economic rights to an adequate standard and quality of life. The Refugee Council and Oxfam commissioned a survey⁹ of organisations working with asylum seekers who reported that 85-90% of their clients experienced hunger, poor health, and were unable to buy clothes or shoes. The report recommended that the level of support in cash or kind to asylum seekers should equate to the total of income support, and those with particular needs such as families with young children, people with disabilities, victims of torture and the elderly should have access to special needs provision and passported benefits on the same terms as UK citizens¹⁰.

Asylum seekers additionally suffer abuses of their social and cultural rights which enable them to maintain dignity of life, the right to access adequate care and services, and right to housing. The 10th report of the UK Joint Committee on Human Rights concluded that by refusing permission for asylum seekers to work and operating a system of support which results in widespread destitution, the Government's treatment of asylum seekers in a number of cases reaches the Article 3 ECHR threshold of inhuman and degrading treatment (paragraph 120)¹¹. The 5th Periodic Report also does not acknowledge the lack of clarity between the obligations of local authorities to apply immigration rules, and to support vulnerable people, which leads to confusion and lack of consistency in what services, if any, are available to asylum seekers.

Asylum seekers also suffer abuse of their social and cultural rights to dignity of life and cultural values through the portrayal of them as a group, by the media. Oxfam's submission to the UK Joint Committee on Human Rights¹² cites convincing evidence based on media monitoring and research of much misrepresentation and negative portrayal that is having negative effects in communities in terms of harassment and racial abuse.

Respect and dignity as core social rights

To make rights effective, people experiencing poverty need to know what their rights are, who has a duty to uphold them, and how to use them to hold authorities to account for their realisation. They must also have sufficient power to voice their concerns, and have them taken seriously by decision-makers. We welcome the statement in the 5th Periodic Report¹³ that it is "standard practice for the Government to consult with organised civil society whenever it is planning a new policy or regulation". However, our experience is that many men and women experiencing poverty are too poor and excluded to feel confident or able to take part in activities organised by the public sector, charities and the voluntary sector. They are not able to exercise their right to respect and dignity unless they feel confident enough that they will be listened to, and their views respected.

⁹ Poverty and asylum in the UK, (2002) Oxfam and the Refugee Council

¹⁰ Hungry and homeless: the impact of the withdrawal of state support on asylum seekers, refugee communities and the voluntary sector, (2004) Refugee Council, supported by Oxfam

¹¹ For more information see What's going on? A study into destitution and poverty faced by asylum seekers and refugees in Scotland (2005) Refugee Survival Trust

¹² Submission to the Joint Committee on Human Rights (JCHR) inquiry the Treatment of Asylum Seekers, 2007

¹³ Paragraph 72 of the 5th Periodic Report

Oxfam has worked with men and women experiencing poverty who report lack of respect and dignity afforded to them by the providers of services, particularly welfare services.¹⁴ They also experience the sense that they have failed in their duty as citizens by being unable to support themselves without the help of benefits, even though they are often overwhelmed by the magnitude of their responsibilities. Dignity and respect are not reported on in the 5th Periodic Report, yet are central to the realisation of economic social and cultural rights. We would suggest the Government include reference to the need for people experiencing poverty to have their rights to dignity respected, in its 5th Periodic Report.

Incorporation of the International Covenant on Economic, Social and Cultural Rights into domestic law

While we welcome the 1998 Human Rights Act, it fails overall to provide a comprehensive statement of ESC rights – for example, the right to health, the right to education and the right to a decent standard of living. We believe that the UK Government should accept that ESC rights can be and are justiciable.

Oxfam recommends, given the scale of the task, that the Government reconsider its objection to incorporation of the International Covenant on ESC rights on grounds of vague definition, and limited budgetary resources¹⁵. The distinction between the two sets of rights is often blurred in both theory and practice. Such rights as equality can be and are enforced by courts; and the gradual implementation of other ESC rights may require changes in public policy and attitude, as much as court cases or massive additional resources which is the UK Government's main reason for not accepting the need for a further consideration of ESC rights. The 21st report of the UK Joint Committee on Human Rights stated that no clear demarcation can be drawn between the substance of rights classified as civil and political, and those classified as economic social and cultural. It points out that the right to an adequate standard of living (Article 11, ICESCR) is a more robust expression of the minimum protection available under the freedom from inhuman and degrading treatment (Article 3, ECHR) which will guard against the worst forms of destitution.

The Government has stressed the importance of the 'indivisibility' (ie. the interdependence) of the whole family of rights - not just civil and political but also economic, social and cultural. Yet this emphasis is primarily visible within UK foreign policy, and has not been accorded similar prominence in relation to UK domestic policy.

Within the UK, social policy tends to prioritise individual responsibility over individual rights (eg. increasingly stringent eligibility tests for benefits, strengthening duties on the parents of young offenders). These responsibilities appear to be targeted disproportionately on poor and vulnerable groups - the very groups most in need of a guaranteed set of economic, social and cultural rights. While Oxfam has no dispute with the notion of responsibilities per se, it does take issue with the way in which this approach undermines the very nature of rights. Rights are not dependent on fulfilment of obligations. Individuals are rights holders; obligations towards their realisation belong to the State. Oxfam's experience shows that those living in poverty are often overwhelmed by the magnitude of their existing responsibilities; responsibilities which often restrict their ability to realise their economic, social and cultural rights.

¹⁴ Such as in the *Get Heard* project, which ran participatory workshops with people experiencing poverty as part of the National Action Plan on Social Inclusion

¹⁵ Paragraph 69 of the 5th Periodic Report

Article 3: Gender equality

Oxfam welcomes the measures reported in the 5th Periodic report, of new legislation and measures including the Equality Act 2006, the establishment of the Commission on Equality and Human Rights, and the Duty of Public Authorities to pay due regard to the need to promote equality of opportunity between women and men, and to eliminate gender discrimination in the way they carry out their functions. All are steps forward in tackling gender inequality in public service delivery. However, there is an especially long way to go in meeting ESC rights in the area of gender equality. Women are disadvantaged by a gender gap in employment, pay, income, pensions, and assets, putting them at higher risk of poverty. In addition, the most disadvantaged groups, lone mothers, and Pakistani and Bangladeshi are even more distant from the labour market and therefore less able to achieve an adequate standard of living.

Progress towards ESC rights in the UK

In conclusion, Oxfam welcomes the progress reported on in the 5th Periodic Report, and the measures taken by the UK Government over the last ten years. However, while the situation has improved, UK law and practice have provided only very limited avenues to pursue remedies in respect of breaches of ESC rights. Oxfam takes the view that there is still some way to go before the UK can be regarded as having met its responsibilities under the ESC Rights Convention.

July 2007