

## 17. Memorandum from OXFAM UK

### INTRODUCTION

1. Oxfam has been invited by the Joint Committee on Human Rights to provide evidence on the Concluding Observations of the UN Committee on Economic, Social and Cultural Rights (the Committee), following consideration of the UK periodic report in 2002. Oxfam takes the view, consistent with UN human rights institutions, that poverty is a human rights issue. The preamble of the Universal Declaration of Human Rights proclaims that "freedom from want" is one of the "highest aspirations of the common people". The alleviation of poverty is, as the Committee has stated, the underlying and recurring theme of the Covenant. [120]

2. This submission provides evidence from the Oxfam UK Poverty Programme (UKPP) and some of its partners working on poverty related issues; it illustrates Oxfam's assertion that, while the UK Government is clearly committed to the relief of poverty and to finding solutions to social exclusion, (as indicated by its social policies and successive redistributive Budgets), poverty reduction in the UK would be considerably strengthened by taking a rights-based approach as required by the UN Covenant on Economic Social and Cultural Rights (the Covenant). The need for strengthening anti-poverty measures is illustrated by the scale of the task: nearly one in four people in Great Britain (just over 13 million) live in poverty according to latest figures. [121]

3. Oxfam argues that incorporation of the Covenant would mean that the UK Government would have to restructure some of its current approaches to poverty and exclusion. A rights-based approach requires a system of policy-making that is accountable in law and open to scrutiny, through the active participation of those living within the jurisdiction, especially those living on the margins, whether citizens or otherwise. [122] Currently, UK law and practice have provided only very limited avenues to pursue remedies in respect of breaches of economic, social and cultural rights. Oxfam takes the view that accountability should be rendered both by incorporation of the Covenant into UK law and by the systematic participation in policymaking and delivery of those experiencing poverty and social exclusion, to enable them to articulate their rights effectively.

4. The United Kingdom, as a party to the Covenant, has legal obligations under this treaty, whether or not it is incorporated. This paper will show that many of the obligations are immediate in nature, and therefore cannot be dismissed as mere aspirational goals. The argument that the Covenant does not place legal obligations upon States Parties is misguided, without academic merit, and has been dismissed by all UN bodies involved in the protection and promotion of human rights. [123] Indeed, the Government itself has publicly stated that ESC rights and civil and political rights are indivisible [124] Oxfam's experience, as shown in this submission, is that without proper mechanisms for the realisation of economic social and cultural rights, people living in poverty struggle to exercise their civil and political rights.

5. The UK government's current approach to rights is to insist that in return for rights, individuals have responsibilities. While Oxfam clearly 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 upon the

fulfilment of obligations. Individuals are right holders; obligations towards their realisation belong to the State. Indeed, 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. Women, for example, frequently bear the sole responsibility for caring for their children and elderly relatives. These responsibilities borne by women account in part for the fact that men's gross weekly income is still more than twice that of women, [125] and that women thus make up the majority of the poor. The tone of the government's "rights and responsibilities" argument places responsibility for economic independence above these other responsibilities, undervaluing the contribution to society made by parents with children, or families with the sick and disabled. The argument also overrides the economic rights of these bearers of responsibility.

6. This submission goes on to provide an example of rights-based anti-poverty work that has been developed and adopted by a non-governmental organisation, and an example of steps taken by the devolved Scottish Parliament towards a more participative approach to asylum policy delivery.

7. Finally, this submission makes some recommendations about the reporting process to the CESCR.

#### ARGUMENTS CONCERNING INCORPORATION

8. The UK Government asserts that the Covenant contains principles and programmatic objectives rather than legal obligations; according to this understanding, the rights contained in it are not justiciable. The Government therefore concludes that incorporation is not necessary or desirable. Oxfam takes the view that the Government's assertion is misguided and does not bear out either the approach of UN bodies including the Committee and the Office of the High Commissioner of Human Rights, nor the writings of eminent academics in the field. Further, it contradicts the Government's own previous statements concerning the indivisibility of rights. For example, in its Annual Human Rights Report 1999, the Foreign and Commonwealth Office stated:

*The achievement of social and economic rights is enhanced by progress in achieving civil and political rights. The commitment to a right to development—which draws together the social and economic rights laid down in the Universal Declaration of Human Rights (1948)—underlines a vital lesson: that we fail to honour the Universal Declaration and cannot be upholders of human rights unless we commit ourselves to all rights for all people. [126]*

9. The Universal Declaration of Human Rights, though not originally intended to be legally binding, is now generally regarded as being an authoritative guide to the interpretation of the United Nations Charter; it contains both civil and political rights on the one hand, and economic, social and cultural on the other. The only reason for the separate development of two Covenants, one protecting civil and political rights, the other, economic, social and cultural, is historical; their separate development reflected the entrenched attitudes assumed by the two sides in the Cold War. Accordingly, failing to regard them as an indivisible whole is no longer tenable.

10. Article 2 of the Covenant describes the nature of the legal obligations undertaken by States Parties. In its General Comment Number 3, the Committee points out that while the Covenant provides for progressive realisation in Article 2(1), it also imposes a number of obligations, which are of immediate effect. The first is to guarantee that all the rights enunciated by the Covenant will be "exercised without any discrimination of any kind", including "national or social origin, property, birth or other status".<sup>[127]</sup> Accordingly, States Parties have an immediate obligation not to discriminate, *inter alia*, on grounds of poverty or social exclusion, in respect of the implementation of the Covenant.

11. The second obligation of immediate application is the obligation to "take steps", with a view to achieving progressively the full realisation of all the rights contained in the Covenant. This means that States Parties cannot wait until the economy improves significantly before taking measures designed to secure the fulfilment of the rights; whatever the prevailing economic climate, States must demonstrate that they are moving progressively in the direction of full protection of the rights enunciated.

12. Groups of eminent jurists in the field of international human rights law from around the world have produced guidelines and principles on the implementation of the Covenant.<sup>[128]</sup> While they are not formally binding in the legal sense, they are an authoritative interpretation of Covenant obligations. The Limburg Principles state that the obligation to "take steps" includes all appropriate means, including legislative, administrative, judicial, economic, social and educational measures consistent with the nature of the rights in order to fulfil their obligations. Further, it stated that the obligation to move expeditiously towards the goal of full realisation of the rights must not be interpreted as permitting states to defer indefinitely efforts to ensure full realisation of the rights.<sup>[129]</sup> Indeed, it stated that the obligation of progressive achievement exists independently of the increase in resources; it requires effective use of resources available.<sup>[130]</sup>

13. The Maastricht Guidelines, building on the Limburg Principles, state very clearly, that violations of the Covenant occur where the State fails to satisfy the minimum core rights. Violations can occur as a result of acts of commission or acts of omission.

14. In its General Comment 9, the Committee gives guidance to States Parties on methods for implementation of the Covenant. Although the Covenant does not require its incorporation into domestic law, the Committee stated that the means used to give effect to its provisions "should be appropriate in the sense of producing results which are consistent with the full discharge of its obligations" under the Covenant.<sup>[131]</sup> It further stated that the need to ensure justiciability is relevant when determining the best way to give the Covenant domestic legal effect, and that consideration should be given to means which have proved the most effective in the country concerned in ensuring protection of other human rights. The Committee stated that incorporation is desirable and has encouraged the UK government to examine the issue anew.

15. Oxfam takes the view that the UK government cannot reasonably argue that the rights contained in the Covenant are not justiciable. It further notes that until the entry into force of the Human Rights Act 1998, it was difficult to persuade the domestic courts that certain practices, or the applications of certain laws, violated the European Convention on Human Rights. Now that the Human Rights Act is in force, individuals

are able to enforce their civil and political rights through domestic courts. Similarly, the best way to protect ESC rights would be to incorporate the Covenant into domestic law. The case for incorporation of the Covenant is a strong one; Oxfam takes the view that incorporation would, perforce, lead to the adoption of a more effective approach to poverty and social exclusion.

#### GOVERNMENT POLICIES, POVERTY AND SOCIAL EXCLUSION

16. The UK government has made numerous commitments to tackle poverty and social exclusion in the UK. The Prime Minister promised to eradicate child poverty within a generation<sup>[132]</sup> and the Chancellor has described it as "a scar on Britain's soul and an affront to our sense of decency." <sup>[133]</sup> Their policies have had some success in reducing poverty. For example, the number of children in poverty fell by 100,000 in the year to April 2002<sup>[134]</sup> to a 12-year low of 3.8 million. According to the Institute of Fiscal Studies Green Budget (March 2003), the effects of the government's tax changes since 1997 on household income have been progressive<sup>[135]</sup>

17. Nonetheless, the government's approach is not a rights-based approach to poverty reduction. There is no mechanism for people living in poverty to seek redress for their situation, because there is no framework of economic, social and cultural rights underpinning policymaking or delivery. Without a rights framework, the government is able to set conditions upon the provision of welfare (such as, for example, the proposal, recently dropped by the government, to withdraw child benefit from "problem" tenants) which contravene the Covenant.

18. The experience of Oxfam and its partners in development work both in the UK and overseas shows that the realisation of economic, social and cultural rights can most effectively be achieved with the active participation of those affected. The Committee itself has stated that policies that are formulated without the active and informed participation of those affected are most unlikely to be effective. And the Office of the High Commission for Human Rights maintains that a human rights approach to poverty requires the active and informed participation of the poor, including the formulation, implementation and monitoring of poverty reduction strategies. <sup>[136]</sup>

19. Oxfam presents some examples below to illustrate how the lack of both a human rights approach to poverty and social exclusion, and the corresponding participative processes to safeguard those economic, social and cultural rights, can mean both that policies designed to tackle poverty are less effective than they would otherwise be, and that ESC Rights are not fulfilled.

#### Example 1: Asylum seekers

20. This example illustrates the Government's failure to recognise that the Covenant applies to everyone within its jurisdiction without discrimination, and not just those lawfully within the borders of the United Kingdom, contrary to Article 2(2) of the Covenant. It shows how the Government's failure to adopt a rights-based approach has resulted in numerous violations of the Covenant, including Article 11 (the right to an adequate living for ones' self and one's family).

21. Asylum seekers are among the most marginalised groups in society. While Oxfam and its partners recognise that regulation of immigration is necessary in modern society, they are concerned that the approaches currently used are plunging asylum seekers into very great poverty, and encourage racial discrimination. The problems detailed here are just some of the many encountered by asylum seekers.

22. Section 55 of the Nationality Immigration and Asylum Act 2002, introduced on 8 January 2003, removed any support from those asylum seekers who did not claim asylum "as soon as is reasonable" leaving them entirely destitute. Whilst appeals through the courts have modified how this is being put into practice, it nonetheless leaves some asylum seekers who are lawfully in the country without any means of support at all and unable to work.

23. For those asylum seekers who do meet the criteria of section 55 of the Nationality Immigration and Asylum Act 2002, [137]the National Asylum Support Service (NASS), provides destitute adult asylum seekers who with a weekly allowance set at 70% of income support rates for adults. [138]There is much evidence to show that, despite the Government's claims that the provision of accommodation makes up for the difference in levels of support, asylum seekers are forced into lower living standards than those on income support. Many asylum seekers find themselves living on NASS support beyond the six months that the Government intended, because their claims are taking much longer than that to process. With the removal of the work concession, asylum seekers are unable to raise their living standard until their case has been determined in their favour. While the accommodation package given to asylum seekers who are dispersed is meant to include all utility bills, furniture and household equipment, 15 of 40 organisations assisting asylum seekers reported that their clients frequently experience problems with accommodation providers not paying utility bills. [139]38 out of 40 organisations reported that asylum seekers were not able to buy clothes or shoes. Many asylum seekers arrive in the UK with little more than the clothes they are wearing; the problem is particularly acute for people escaping from countries with a warm climate. Thirty-two organisations reported that asylum seekers were not able to maintain good health.

24. Those asylum seekers who choose not to be dispersed in order to be close to members of their own communities have to make their own accommodation arrangements; they receive no in-kind benefits at all from the NASS and no contributions towards rent, utility or other household costs. This usually results in asylum seekers lodging with family or friends. As a result, accommodation is often over-crowded, and problems may occur during the often-considerable NASS delays before the asylum seeker(s) concerned receives their weekly allowance. Thirty-three of 40 organisations offering assistance to asylum seekers reported that clients sometimes or frequently reported problems with delay or non-arrival of NASS payments.

25. Vulnerable groups such as the elderly and disabled are not entitled to any premiums to meet their additional needs. Families are not entitled to the additional family premiums including those for children with disabilities. Furthermore asylum seekers with disabilities find it increasingly difficult to access community care services as they are usually treated as asylum seekers first and foremost. Those with special dietary needs such as diabetics frequently cannot afford to buy special foods.

26. Evidence shows that the NASS performance is poor; it operates extremely slowly, is over-centralised, making communication with it almost impossible, and makes frequent errors. The consequences of such poor performance, without any system of redress, are particularly great for a group already so marginalised in our society, and illustrate the essential need for accessible legal redress of infringement to their rights—economic, social and cultural, as well as civil and political.

#### Example 2: The poor and exorbitant credit

27. This example serves to illustrate the failure of the Government to take appropriate steps to protect the right of those living in poverty to an adequate standard of living for themselves and their families, contrary to Article 11(1).

28. One of the problems experienced by those living in poverty, is the lack of access to affordable credit. Industry analyst Datamonitor estimates that 8.3 million people (one in five adults) are denied access to mainstream credit from banks, building societies and finance houses. [140]The result is that those needing "income smoothing" are frequently forced into the arms of the alternative credit industry ie companies specialising in lending to those with impaired or low credit rating.

29. Evidence given by organisations such as Church Action on Poverty and the Debt on our Doorstep Campaign, shows that the alternative credit industry, estimated to be worth £16 billion per year in the United Kingdom, [141]frequently charge interest rates of over 100% APR. Indeed, companies have been known to charge their customers more than 1000% APR. Such interest rates are exorbitant, and almost inevitably lead those in most need into spiralling debt. For some, this means that they lose their homes, experience family break up and add to the child poverty figures. The National Association of Citizens' Advice Bureaux figures show[142]there has been a 47% rise in requests for advice on debt since 1997. Meanwhile, more than a quarter of applicants are refused loans for essential items, such as fridges, beds etc, from the Social Fund. [143]

30. The government, as regulator of the credit market, has thus far failed to address the economic rights of poor people faced with exorbitant rates of interest. It is generally accepted that most people need some form of income smoothing at differing points in their lives and the lack of a ceiling on interest rates charged to those living in poverty means that while such people spiral into further debt and despair, big business is making huge profits from the most marginalised groups in our society[144]The government's failure to regulate the credit market properly, and to provide adequate resources for the Social Fund, denies those most in need the ability to provide for their core needs, (while ironically those on higher incomes enjoy access to much cheaper credit), and infringes Article 11 of the Covenant.

#### Example 3: Homeworkers

31. This example illustrates how a failure to adopt a rights-based approach in respect of this group of workers, breaches the UK's obligation to take appropriate and adequate steps, in particular, to protect the right of everyone to the enjoyment of just and favourable conditions of work, contrary to Article 7 of the Covenant. Article 7 includes the right to fair wages, and a decent living for workers and their families.

32. The National Group on Homeworking research shows that homeworkers are a particularly vulnerable group. [145] They are often isolated from other workers, are rarely unionised and frequently are not aware that labour laws apply to them. Central to the vulnerability of homeworkers is their frequent and erroneous classification as self-employed. This means that they are denied the benefits of employment such as sick pay, holiday pay, maternity leave and pay. They are also denied payment of the full national minimum wage (NMW), despite the fact that the NMW legislation specifies that homeworkers must be so paid. A further problem is that the application is neither monitored nor subject to independent enforcement. Enforcement machinery, being dependent upon an individual making a complaint to the Inland Revenue, is seldom resorted to, for a number of reasons. First, homeworkers are generally ignorant of the procedure; second, the use of this procedure increases their vulnerability. While the Inland Revenue can take action to enforce the minimum wage in respect of an individual, it cannot take action to protect the worker concerned if s/he suffers any detriment as a result, such as losing their job, or a reduction in hours. To challenge these actions, a homeworker must pursue their claim via the employment tribunals. Their isolation, and non-unionised status act as strong deterrents to pursuing legal action. These factors lead to situations where, in 2001, the average rate of pay for homeworkers was £2.66 per hour. [146]

33. The power relationships at play between homeworkers and their employers also means that they are particularly vulnerable to fluctuations in the economy. The NGH has evidence of workers being told at the time of asking, that there is no work, but to ask again the following week. This can continue for weeks after which the employer may say there is no work for them at all. Where work is moved overseas to gain access to cheaper labour markets, homeworkers are seldom given notice, nor paid redundancy money. [147]

34. In the 1997 White Paper, Better Government, [148] the Government indicated their intention to ratify the ILO Homework Convention No 184; however, nearly six years later it has still failed to do so. The Convention requires ratifying States to adopt, implement and review their national policies on homework. The Government further stated in the White Paper, "Government aims to set the agenda to ensure that working from home is a real and positive alternative for workers and employees". Ratification of this ILO Convention, in line with its stated intention, would require the Government to adopt a more rights-based approach to this vulnerable group of workers.

35. The experience of homeworkers shows that a rights-based approach to the national minimum wage in the UK would require restructuring of the enforcement mechanisms, to prevent those claiming their rights from losing their livelihood. It requires the acknowledgement of the very vulnerable position of some workers relative to their employers and consequently the need to construct government policy so that it overcomes this unequal power relationship.

#### Example 4: Homelessness

36. This example illustrates how a failure to adopt a rights-based approach with regard to homelessness, breaches the State's obligation to take appropriate steps, in particular, to protect the right of everyone to an adequate standard of living for themselves, including adequate food, clothing and housing, contrary to Article 11.

37. The problems of the homeless are many and complex, as are the reasons for homelessness. Experience of one of Oxfam's partners<sup>[149]</sup> working with the homeless shows that many long-term homeless people have come through the care system, and have been repeatedly let down by the very institutions designed to help them. Some people become homeless owing to shortcomings of the benefits system—eg where housing benefit ceases to be paid due to administrative errors. In such circumstances, tenants are frequently evicted, also losing any deposit they may have paid at the beginning of the lease. <sup>[150]</sup>Renting in the private sector presents many obstacles, including the obligation to provide a deposit, and to provide references. Even in circumstances where homeless persons manage to find accommodation, frequently they need help and support in how to deal with those in authority, and how to budget for their living expenses. <sup>[151]</sup>Without such help, they frequently find themselves becoming homeless once more.

38. The experience of those working with the homeless is that there are insufficient hostel places to provide beds for all those seeking one. Experience of the Bath, and the Exeter Meaningful Occupations Projects, as well as Groundswell, shows that there are insufficient numbers of hostel places.

39. The government's failure to take a rights-based approach is manifested in the recent White Paper, *Respect and Responsibility, Taking a Stand Against Anti-Social Behaviour*, which contains a proposal to make begging a recordable criminal offence. This would counter Article 11 of the Covenant and punish the poor for their situation. If the government were working towards the realisation of ESC Rights, they would instead be providing more hostel accommodation and rehabilitation services for these vulnerable people. It is clear that without means through the law to realise their economic rights, the homeless have little redress for their situation.

#### REALISING ECONOMIC, SOCIAL AND CULTURAL RIGHTS

40. Oxfam argues that, in order to uphold ESC rights, the government should incorporate the Covenant into UK law. However, Oxfam believes that ESC rights require a different approach to policymaking generally. All those consulted in the preparation of this evidence, including organisations representing those in poverty, and indeed those who have experienced poverty, reported that key to realising their economic, social and cultural rights was systematic and proactive participation. This is where men and women are involved in all stages of the process and have influence over the shaping and delivery of policy. All of those consulted reported that whenever there were opportunities for participation, the results were: improved approaches to poverty, increased levels of self-esteem and confidence, assumption of responsibilities and respect. They all reported that participation does however, require significant financial and practical support, and that it is time-consuming. Oxfam and its partners have considerable experience in participative approaches to poverty.

41. The following examples show how moving towards participatory policymaking can support the realisation of economic, social and cultural rights:

Example 1: Gellideg Foundation project<sup>[152]</sup>

42. The Gellideg Foundation's project is illustrative of the significant benefits of a participative approach to enabling people in poverty to realise their economic rights. The Foundation's project is unusual and very successful; residents of the local

community have been in control of identifying needs of all members of their community, have applied and received funds, and succeeded in delivering quality services to the residents of Gellideg.

43. Gellideg is a poor housing estate in Merthyr Tydfil, south Wales. It has high levels of unemployment and suffers multiple deprivations. In 1998, a group of mothers, frustrated at the lack of opportunities for their children and rising levels of drug dependency in the area, got together to talk about ways they might improve their situation. They formed the Gellideg Foundation, and with assistance from Oxfam, began asking questions of a wide range of people who lived on the estate. They interviewed people in their houses, trying to assess how men and women's experience of poverty there differed. They examined issues related to training, employment, child care, stereotyping, low expectations and low self esteem. They also asked people for their views on what could be done to improve their situation. They secured nearly £500,000 of European Union Objective 1 funding, and the Foundation now aims to make opportunities available and accessible to men and women to help ease the previously insurmountable transition from welfare dependency to work. It aims to develop a programme that develops new skills, builds self-confidence, provides advice and information, makes care provision available on the estate and challenges gender stereotyping. Some significant improvements have already been made in the estate. There are community workers for the estate, there are clubs for children and young people, including sports training, and a community centre that will house a community cafe, houses a computer suite and provides space for dance and other classes. The Foundation has employed an adult education officer to work with the residents to implement some of the findings of the assessment.

44. Some comments from residents have included the following:

*"The estate is starting to improve since the Foundation was formed"*

*"The Foundation has really made a difference round here. It is pulling the community to work together. They hold meetings where people can come together to talk about issues—everyone comes. And the youth club keeps kids off the street"*

*"We started talking about the drug problem on the estate—just a few of us. Now most people on the estate come to the Foundation. They come to find out how to get repairs done to their houses. The kids come to tell someone about their problems—sometimes it's easier for them to talk to someone outside the family and get advice. The kids come to play football. The old people come once a week for a social."*

45. The Foundation has grown to be inclusive of men and women young and old and have become an organisation with over 13 members of staff. They have acquired a multiplicity of skills along the way, learning to communicate with, and stand their ground against, larger organisations, voluntary and statutory, which have tried in different ways to influence or control their group. They have learned how to manage people, premises and finances, and have developed skills required to engage in strategic planning. The men and women of Gellideg not only understand their economic rights and the causes of their poverty, but have learned through listening to one another, how to develop and deliver policies and services that have contributed to a significant improvement in the living standards of men women and children on their estate.

## Example 2: Steps taken by the Scottish Executive[153]

46. While the Scottish Executive has no power to make policy in respect of immigration and asylum, the matter of how to implement the Westminster policy of dispersal was within the scope of their powers. Accordingly, it set up the Scottish Refugee Integration Forum (SRIF), whose remit is to develop action plans to enable the successful integration of asylum seekers and refugees in Scotland and the provision of more accessible, co-ordinated and good quality services. It was also asked, among other things, to promote positive images of refugees as members of society.

47. The SRIF consulted widely over the best way to integrate asylum seekers and refugees, including the impact dispersal would have on local service providers. Focus groups were run in seven refugee languages, as well as English. The consultation included organisations involved in assisting asylum seekers and refugees, as well as a number of asylum seekers themselves. It marked a genuine concern to develop the most appropriate responses to dispersal, taking account of the needs of the people affected.

48. The Result was that the SRIF developed more than 50 actions. Among them were:

- A new Code of Guidance should be produced, referring specifically to refugees and which should identify them as a vulnerable group in priority need
- Every refugee, on being granted refugee status should have sufficient information provided to them to enable them to understand the housing and welfare benefits system
- There should be more progress on recognising the qualifications and/or experience of asylum seekers and refugees and on providing conversion courses and competence testing where appropriate.
- Asylum seekers and refugees must be properly consulted during the process of the development of Children's services plans

49. Although this was not a fully participative process, it recognised the economic rights of the refugees and asylum-seekers and it is an example of how policies can assist refugees and asylum-seekers in realising their rights.

## THE REPORTING PROCESS TO THE UN COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

50. The established reporting procedure to the Committee enables non-governmental organisations to provide written comments and verbal evidence on the government's report to the Committee. There is no collaboration between government and the voluntary sector in the preparation of the report, and there is no evidence sought from those living in poverty to inform the government's report. Oxfam would welcome the opportunity for dialogue between the voluntary sector and the government to explore how the process might be improved to incorporate the experience of those living in poverty.

## CONCLUSION

51. Oxfam recognises and welcomes the Government's proven commitment to the alleviation of poverty and social exclusion. However, our experience of work with our

partners in the field shows that the Government's current approach could be significantly strengthened by incorporation of the Covenant into UK law. The availability of mechanisms for the enforcement of economic, social and cultural rights is particularly important for vulnerable groups such as asylum seekers, who lack even the basic protection offered by representation in the electoral system.

52. Incorporation would require a commitment to a more participative approach to poverty, which would serve to better identify the causes of poverty and social exclusion, and devise more appropriate solutions. Our experience shows that where those living in poverty feel that their voices are sought, listened to with respect, and acted upon, they feel more respected as members of society. As a result, they are more likely to be motivated in searching and acting to find long-term solutions that will work, thereby assuming responsibilities for themselves, their families and their communities.

53. A rights-based, participative approach to the issues raised in this Submission would result in the fulfilment of the obligations under the Covenant. For example, a rights-based approach to debt would fulfil the State's obligations under Article 11, namely the duty to take steps to protect the right of everyone to an adequate standard of living for themselves and their families, including adequate food, clothing and housing. A rights-based approach to asylum seekers would fulfil the State's obligation to guarantee the Covenant rights to all without discrimination in accordance with Article 2(2), and would fulfil one of the Covenant's main purposes, namely the recognition of the inherent dignity of all members of the human family.

*April 2003*

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120 Committee on Economic Social and Cultural Rights: Substantive Issues Arising in Implementing of the International Covenant on Economic Social and Cultural Rights: Poverty and the Covenant on Economic, Social and Cultural Rights, E/C.12/2001/10, at para. 1. [Back](#)

121 Department for Work and Pensions, *Households Below Average Income 1994-95 to 2000-01*, Corporate Document Services, 2002. Poverty is measured here as below 60% of contemporary median net equivalised disposable income in 2000-01. [Back](#)

122 Accordingly, asylum seekers for example, must be included. [Back](#)

123 Eg The UN Committee on ESC Rights, the UN High Commissioner for Human Rights and the UN Commission on Human Rights. [Back](#)

124 Annual Human Rights Report 1999, the Foreign and Commonwealth Office. [Back](#)

125 Women and Equity Unit, *Individual Income 1996-97 to 1999-2000*, Cabinet Office, 2001 (1999-2000, Great Britain, median income). [Back](#)

- 126 Foreign and Commonwealth Office and Department for International Development, "Human Rights" Annual Report for 1999, CMND 4404. [Back](#)
- 127 Article 2(2). [Back](#)
- 128 The Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights, 1986; and the Maastricht Guidelines on Violations of Economic Social and Cultural Rights 1997. [Back](#)
- 129 Limburg Principles at para 21. [Back](#)
- 130 *Ibid* at para 23. [Back](#)
- 131 General Comment 9, UN Doc. E/C.12/1998/24 (1998), para 5. [Back](#)
- 132 Tony Blair, Beveridge lecture, 18 March 1999. [Back](#)
- 133 Gordon Brown July 14 1999. [Back](#)
- 134 Department of Work and Pensions publication "Households Below Average income 1994-95 to 2001-02". [Back](#)
- 135 *See* <http://www.ifs.org.uk/> the average net household income increase has been 2%, with the poorest decile of households seeing an increase of 15% in their net income, decreasing steadily up the deciles, with a 3% decrease in net income for the richest decile. [Back](#)
- 136 Human Rights, Poverty and Sustainable Development: Health Water and Food, The Office of the High Commissioner of Human Rights, World Summit on Sustainable Development, Johannesburg, 26 August-4 September 2002. [Back](#)
- 137 Namely, that they applied for asylum "as soon as reasonably practicable". See the Court of Appeal Judgment of 18 March 2003 for details on the application of this test, and the risk of destitution. [Back](#)
- 138 Poverty and Asylum in the UK, Oxfam and the Refugee Council, 2002. [Back](#)
- 139 *Ibid.* [Back](#)
- 140 *See*, Profiting from Poverty: Why Debt is Big Business in Britain, Henry Palmer with Pat Conaty, NEF Pocketbook, 2002. [Back](#)
- 141 *Ibid*, at page 5. [Back](#)
- 142 Daylight Robbery, The CAB case for effective regulation of extortionate credit, National Association of Citizen's Advice Bureaux, 2000. [Back](#)

143 Unfair and under funded, CAB evidence on what's wrong with the Social Fund, National Association of Citizen's Advice Bureaux, 2002. [Back](#)

144 Conversation with Niall Cooper, Church Action on Poverty, and co-ordinator of the Debt on our Doorstep campaign. [Back](#)

145 *See* National group on Homeworking Mapping Project, [www.homeworking.gn.apc.org/research/intro.html](http://www.homeworking.gn.apc.org/research/intro.html); and conversation with Linda Devereux. [Back](#)

146 That statistic hides great disparities in pay. The NGH found in the same year, that many workers were earning as little as £1 per hour. National Group on Homeworking, NGH Report on monitoring the impact of the National Minimum Wage made to the Low Pay Commission, in January 2001. [Back](#)

147 Discussion with Linda Devereux of NGH. [Back](#)

148 Cm 3798, December 1997. [Back](#)

149 Groundswell UK. [Back](#)

150 Conversations with Claire Cochrane of Groundswell UK, Richard, formerly long term homeless, now working with homeless people in Bath, and Jane, at the Meaningful Occupations Project in Exeter. [Back](#)

151 Conversation with Jane, from the Meaningful Occupations Project in Exeter. [Back](#)

152 Fifty Voices are Better than One, Gellideg Foundation Group and Oxfam, March 2003. [Back](#)

153 Scottish Refugee Integration Forum: Action Plan, and Supporting Document, [www.scotland.gov.uk/library5/society/rfap-01.asp](http://www.scotland.gov.uk/library5/society/rfap-01.asp), and [www.scotland.gov.uk/library5/society/rfsd-01.asp](http://www.scotland.gov.uk/library5/society/rfsd-01.asp).