Fairness for All: A New Commission for Equality and Human Rights - Oxfam’s response to the White Paper

Summary

Oxfam believes that poverty, social exclusion and discrimination represent a denial of human rights, preventing people from exercising their full rights (e.g. to housing, adequate health care, education, to an adequate standard of living). In our view, there are also important connections between economic inequality, and inequality based on social divisions such as age, disability, race, gender, sexual orientation, and religious affiliation.

We recognise the progress that has been made since 1997 in developing a legal and institutional framework to tackle inequalities and promote human rights. We welcome the Government’s proposals to establish a Commission for Equality and Human Rights (CEHR), and believe that this body can play a significant role in developing a culture of human rights in the UK. Our recommendations are summarised below:

- The suggestion that the CEHR should consult the voluntary and community sector on its strategic plan is useful. However, Oxfam believes the CEHR will have to be much more radical and innovative if it wishes to engage with marginalized men and women. We believe that the CEHR could usefully engage in dialogue with the Department for International Development on participatory approaches. It could also pioneer innovative participatory ways of working with groups facing poverty, social exclusion and discrimination. We suggest that the CEHR establish fora for regular structured input into policy and decision-making by people facing poverty, social exclusion and discrimination at UK, devolved and regional levels.

- Provision of grant-giving powers for the CEHR to assist local organisations and groups, as the White Paper recommends, will undoubtedly be helpful. But further action will also be required to support the voluntary sector. We endorse the proposals set out by the Institute for Public Policy Research for the CEHR to be involved in: information provision about human rights; development of case study materials, highlighting the application of human rights principles; dissemination of informal best practice codes; and guidance on staff training.

- Rather than the burden remaining with individual users to seek to claim their rights, the emphasis should shift so that service deliverers take account of human rights in the design and implementation of services as a matter of course. Oxfam agrees with the Joint Committee on Human Rights (para 32, Eleventh report) that a positive duty should be imposed on public authorities to promote human rights.

- We concur with the argument of the Joint Committee on Human Rights that: ‘Involvement in the reporting processes under the various international human rights instruments would be a valuable function of any human rights commission’ (para 118, Sixth report). The Commission should also have the ability to engage in international co-operation in support of human rights.
Oxfam welcomes the recent announcement by the Deputy Minister for Women and Equality at the EDF Conference (14 July 2004) that: ‘…one of the first tasks of the CEHR will be to review the legislative framework to ensure that it meets the needs of a modern Britain, with the aim of bringing forward a Single Equality Act’. Although we would have preferred a Single Equality Act to have been introduced either at the same time as the Commission for Equality and Human Rights or – more advisedly – before setting up the Commission, we are glad that the Government is committed to taking this step. We believe that this proposal should be enacted as swiftly as possible.

Whilst there will clearly be a sponsoring department within government, it is essential that the role and work of the CEHR should not be influenced by one department (or Minister) alone. In Oxfam’s view, the CEHR should have strong links with, and influence within, other government departments through a designated Standing Inter-Ministerial Group.

Oxfam believes that the CEHR should have a direct reporting relationship to a parliamentary committee, preferably the Joint Committee on Human Rights (with an expanded ‘Equalities’ remit).

Bearing in mind the need to ensure efficiency and cost-effectiveness in the operation of the CEHR, it is essential that the new body has sufficient resources available to carry out its role effectively. Overall, it should be better resourced than the combined budgets of the existing commissions. The budget should be determined by Parliament rather than the Executive.

The work of Oxfam’s UK Poverty Programme

Oxfam GB established a UK Poverty Programme (UKPP) in the mid 1990s in response to a concern that it should begin to address poverty ‘at home’ in a more systematic way. The overall purpose of the UKPP is to have a direct impact on poverty and social exclusion in the UK, by strengthening the skills and capacity of the community and voluntary sector to tackle poverty more effectively, and by direct lobbying and campaigning based on Oxfam’s domestic and international programme experience. The UKPP’s work is organised around four key programme themes: sustainable livelihoods; humanitarian protection; participation; and gender and race equality.

Oxfam has a long-standing commitment to the promotion of gender equality, both internationally and at home. We recognise that women are in the majority in the poorest groups, that men and women have different needs, and that solutions to poverty will not be effective unless they address power relations and resource imbalances between women and men. We have piloted gender analysis within services as a means of highlighting gender assumptions, identifying inequalities, and developing action in response. We are now seeking to develop a programme of work around race inequality that will focus on addressing the causes, and support the empowerment of black and minority ethnic communities in seeking
solutions; this will learn both from our international experience and our work on gender inequality.

**Introduction to Oxfam’s response**

>“The worst thing about living in poverty is the way it gives others permission to treat you as if you don't matter, as if your opinions don't count, as if you have nothing to contribute. We realise that this doesn't show up in the statistics, but there is a stigma attached to living in poverty. If you make policy about us and not with us, then you reinforce that stigma.’

Comment by community activist at All Party Parliamentary Group on Poverty meeting, 27 February 2002

Oxfam regards poverty as a state of powerlessness, in which men and women are unable to exercise their basic human rights or control virtually any aspect of their lives. Poverty is the result of deeply rooted inequalities in power relationships, institutionalised through policies and practices at the state, societal and household levels.

In a previous publication on human rights in the UK, we argued that poverty, social exclusion and discrimination represent a denial of human rights, preventing people from exercising their full rights (e.g. to housing, adequate health care, education, to an adequate standard of living).

In our response we focus primarily on issues relating to human rights and participation. We also comment on the UK’s international obligations, the development of a Single Equalities Act, and the accountability and independence of the CEHR.

**Engaging with key stakeholders – rights and participation**

>‘Respect for the men and women in receipt of social benefits and social and other statutory services is needed... Agencies and local authorities should be aware of the power relations at play when they are interacting with vulnerable people and adopt a code of conduct with guidance on acceptable standards towards the men and women using their services. Care should be taken at all times to ensure that no-one is being marginalized by inappropriate attitudes.’

Gellideg Foundation Group/Oxfam, (2003), *Fifty voices are better than one*: *Combating social exclusion and gender stereotyping in Gellideg, in the South Wales Valleys*, www.oxfamgb.org/ukpp/resources

Oxfam believes that rights-based approaches are essential in tackling poverty, social exclusion and discrimination. If implemented effectively they can improve analysis of, and responses to, poverty, and result in the development of policies and practices that are relevant to those people affected. They can also enhance the self-esteem and confidence of people in poverty, and encourage wider understanding of the difficulties they face. They can help to challenge the negative stereotypes and prejudice that impact on people in poverty, and strengthen their claims to full citizenship.
The White Paper acknowledges the importance of such participation, and highlights the importance of the voluntary and community sector organisations (‘especially those led by and working for individuals who experience discrimination’) to the work of the CEHR. It argues that ‘the CEHR must have an ongoing dialogue with these organisations to ensure that its work remains grounded in the experiences of discrimination’ (para 2.6) and states that the CEHR ‘will need to consider how to make its consultations ‘timely, accessible and interactive, ensuring that it genuinely listens to groups and individuals’ (para 2.11). Laudable though these aspirations are, the White Paper provides little indication of how they will be met.

The suggestion that the CEHR should consult the voluntary and community sector on its strategic plan is useful. However, Oxfam believes the CEHR will have to be much more radical and innovative if it wishes to engage with marginalized men and women. In practice, community activists often resist involvement in participation processes on the basis of negative past experiences. They frequently suggest that their participation was tokenistic and even humiliating – and that in the end, they had no influence on decisions taken. If power relations are to shift so that consultation is genuinely participatory, it is vital that those involved can see that their intervention has made a real difference. We believe that the CEHR could usefully engage with sources of experience and expertise on participatory approaches (Oxfam, or for example the Department for International Development). It could also pioneer innovative participatory ways of working with groups facing poverty, social exclusion and discrimination. We suggest that the CEHR establish fora for regular structured input into policy and decision-making by people facing poverty, social exclusion and discrimination at UK, devolved and regional levels. We would be happy to share with you our experience of work with the Department for Work and Pensions in directly engaging people experiencing poverty in policy making.

Beyond consultation with the voluntary and community sector to identify the priorities for the CEHR, the White Paper acknowledges the importance of developing partnership relationships with the voluntary organisations. There is currently a serious lack of awareness within the sector of the implications of the Human Rights Act. As the British Institute for Human Rights have found: ‘There is little or no understanding of the Act as a useful framework for public service providers within which problems can be solved and risks assessed, and within which the needs of individuals in the provision of services can be considered’ 5. Provision of grant-giving powers for the CEHR to assist local organisations and groups, as the White Paper recommends, will undoubtedly be helpful. But further action will also be required to support the voluntary sector. We endorse the proposals set out by the Institute for Public Policy Research6 for the CEHR to be involved in: information provision about human rights; development of case study materials, highlighting the application of human rights principles; dissemination of informal best practice codes; and guidance on staff training.

More broadly, Oxfam welcomes the recognition in the Prime Minister’s Foreword to the White Paper that: ‘We cannot achieve our vision of high quality public services for all if those services do not respect individuals’ rights to dignity, privacy and respect’. In our view, much more needs to be done to translate this positive statement into effective public policy and service delivery.
Oxfam’s experience (and that of most of our partners in this field) is that a focus on strong participatory processes/techniques is a necessary but not sufficient factor to bring about real change. Our analysis has led us to focus much more clearly on issues of power relations and power-sharing. As we have found in our work in international development contexts, it is vital to shift the ideas and beliefs of service deliverers and decision-makers towards people facing poverty, social exclusion and discrimination, so that the latter are treated with the same respect that any other citizen feels entitled to.

As yet, the evidence suggests that public authorities are currently failing to apply these human rights and equalities principles of dignity and respect to service delivery in a sufficiently rigorous way. In a recent survey of public bodies by the Audit Commission, 58 per cent had not adopted a strategy for human rights.

Rather than the burden remaining with individual users to seek to claim their rights, the emphasis should shift so that service deliverers take account of human rights in the design and implementation of services as a matter of course. Oxfam agrees with the Joint Committee on Human Rights (para 32, Eleventh report) that a positive duty should be imposed on public authorities to promote human rights.

In tandem, service deliverers need to pay greater attention to the particular needs of different groups of service users within each equality strand. Oxfam will soon publish a guide to ‘gendering’ service delivery (see box below), which we believe could serve as a model for future guidance from the CEHR.

‘Becoming a gender-aware service provider means that you must consider all aspects of the work that you do, the decisions that you make, and the ways that these affect men and women. It requires you to dig deep under the surface of your statistical evidence to ask how and why men and women are enabled to or prevented from using services.’

Richardson, K., (2004), See both sides: A practical guide to gender analysis for quality service delivery, Oxfam (forthcoming)

The UK’s International Obligations

Appendix A of the White Paper summarises legislation relevant to the work of the Commission. Whilst we accept the centrality of the legislative instruments highlighted, we would have expected to see a clearer picture of the range of international and European human rights instruments upon which the Commission’s work may draw. This should include, for instance:

- The International Covenant on Economic, Social and Cultural Rights (1966);
- The Convention on the Elimination of all Forms of Discrimination Against Women (1979);
- The Optional Protocol to the Convention on the Elimination of Discrimination Against Women (recently ratified by Government);
- The International Convention on the Elimination of all Forms of Racial Discrimination (1966); and
The White Paper suggests that: ‘Even though these are not binding parts of domestic law, the UK seeks to comply with them and they should form part of the CEHR’s broader awareness work’ (para 3.27). This recognition of the importance of these international instruments is welcome, however we believe the role of the CEHR should go beyond awareness-raising. We concur with the argument of the Joint Committee on Human Rights that: ‘Involvement in the reporting processes under the various international human rights instruments would be a valuable function of any human rights commission’ (para 118, Sixth report). Although the Committee itself has begun to scrutinise the periodic reports of the UK government under these conventions and covenants, there is an additional role for an independent Commission in bringing a ‘more systematic, detailed and sustained quality to this work’ (para 117, Sixth report). The Commission should also have the ability to engage in international co-operation in support of human rights.

Towards a Single Equalities Act

Oxfam welcomes Government initiatives such as the introduction of the Human Rights Act 1998, the establishment of the Disability Rights Commission, the implementation of the Race Relations Amendment Act 2000, and the implementation of regulations to prevent employment discrimination on the grounds of sexual orientation or religion or belief. We also support the Government’s recent pledge to give public sector bodies a duty to promote equality for women and men, and future legislation on disability and age discrimination.

Whilst all of these changes entail improvements to the legislative framework, it is widely believed that the overall structure of equalities legislation is currently flawed. It has been argued that existing discrimination law is inaccessible and complex, that it treats people unfairly (by granting more rights to some people than others), and that the definitions used (e.g. ‘direct’ and ‘indirect discrimination’) are inconsistent between the different equality strands.

Oxfam therefore agrees with many other NGOs that a new Equality Act should be established so that the main provisions of equality law can be brought together under a clear and coherent umbrella. As JUSTICE has argued: ‘the new law would eliminate inconsistencies and ensure that each type of discrimination receives the same level of protection. Of course, the key to this is getting the content of any new Act right. It must entail common, clear standards that employers and the public can understand, including consistent definitions of key terms and common and effective remedies’.

A new Equality Act must also ensure a holistic approach to equalities in which all strands can see gains rather than losses. Oxfam’s experience of working on gender equality has led us to conclude that one strand cannot be achieved without attention to other strands. For example, we cannot address gender without addressing race alongside it – as the discrimination and poverty faced by the poorest women is exacerbated by the racism faced by women from some black and minority ethnic groups.

Against this background, Oxfam welcomes the recent announcement by the Deputy Minister for Women and Equality at the EDF Conference (14 July 2004) that: ‘…one of the first tasks of the CEHR will be to review the legislative framework to ensure
that it meets the needs of a modern Britain, with the aim of bringing forward a Single Equality Act’. Although we would have preferred a Single Equality Act to have been introduced either at the same time as the Commission for Equality and Human Rights or – more advisedly – before setting up the Commission, we are glad that the Government is committed to taking this step. We believe this proposal should be enacted as swiftly as possible.

**Accountability and Independence**

Whilst there will clearly be a sponsoring department within government, it is essential that the role and work of the CEHR should not be influenced by one department (or Minister) alone. In Oxfam’s view, the CEHR should have strong links with, and influence within, other government departments through a designated Standing Inter-Ministerial Group.

The White Paper argues that the CEHR will be held to account by Parliament through the requirement that the Secretary of State will lay its annual report before both Houses of Parliament. Oxfam believes that the CEHR should have a direct reporting relationship to a parliamentary committee, preferably the Joint Committee on Human Rights (with an expanded ‘Equalities’ remit).

Bearing in mind the need to ensure efficiency and cost-effectiveness in the operation of the CEHR, it is essential that the new body has sufficient resources available to carry out its role effectively. Overall, it should be better resourced than the combined budgets of the existing commissions. The budget should be determined by Parliament rather than the Executive.

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4. For further information, see Commission on Poverty, Participation and Power, (2000), *Listen hear: The right to be heard*, Policy Press, Bristol