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Abstract: This article takes the opportunity of the 75th anniversary of the Universal Declaration of Human Rights (UDHR) to reflect on the relationship between the UDHR and the recently labelled cost-of-living crisis. It argues that it is inaccurate to suggest that the cost-of-living crisis is a *new* crisis. Rather, the cost-of-living crisis is merely the label given to the intensification in depth and scale of a longstanding and neglected perma-crisis: poverty. It is contested that poverty represents a lack of resilience (vulnerability) to broader crises; that there is a need to recognise and respond to economic, social and cultural rights (ESCRs) to address poverty; and that through doing so human rights can be harnessed to facilitate societal and individual resilience to prevent future intensifications of poverty (cost-of-living crises). At the same time as facilitating resilience, increased recognition of, and responsiveness to, ESCRs would also serve to fulfil the promise of the UDHR.

INTRODUCTION

Milestone anniversaries in international human rights law have generated a great body of literature. Three key themes have stemmed from this body of work: celebration, reflection, and new understanding.¹ This article takes the opportunity of the 75th anniversary of the Universal Declaration of Human Rights (UDHR) to reflect on the relationship between the UDHR and the recently labelled cost-of-living crisis. This cost-of-living crisis has dramatically impacted human rights, especially Economic, Social and Cultural Rights (ESCRs), and engages a range of state obligations pertaining to ESCRs including non-retrogression, progressive realisation, and minimum core obligations.² Whilst this crisis 'both follows and intersects with a series of

*The author is grateful to Guy Baldwin for comments on earlier drafts of this paper. All errors remain, solely, my own.

¹ Kathryn McNeilly, "Milestone Anniversaries: Marking Time in International Human Rights Law" (2023) 45 Human Rights Quarterly 109, p.130.

² Aoife Nolan, "Human Rights and the Cost-of-Living Crisis" (2023) 41 Netherlands Quarterly of Human Rights 3, p.3.

crises' it is also likely to reoccur in the future making it 'vital that we take up the challenges it poses to human rights'.³

To take up this challenge, based on a reflection on the relationship between the cost-of-living crisis and the UDHR, this article offers a new understanding: there is no *new* cost-of-living crisis. Rather, even before the labelling of a cost-of-living crisis those experiencing poverty, which was and remains prevalent and is rising, were unable to meet the cost-of-living. It is argued that the poverty which pre-existed the recognition of a cost-of-living crisis constitutes not only a perma-crisis but also represents a failure to fulfil the promise of the UDHR. More specifically, this poverty – and the failure to recognise it as an ongoing cost-of-living crisis – illustrates a long-standing failure to appropriately recognise and appropriately respond to ESCRs. Given that poverty exacerbates the consequences of other crises,⁴ poverty – that is this longstanding and ongoing cost-of-living-perma-crisis – has increased societal vulnerability to broader crises. However, poverty is not inevitable. It follows that, whilst global crises may be inevitable (and beyond the control of domestic policymakers) it is not inevitable that global crises will result in cost-of-living crises. So understood, the solution to cost-of-living crises – and the negative impact of this current crisis on human rights – is to address the poverty which inhibits societal resilience to the impact of broader crises. To do so it is argued that there is a need to live up to the promise of the UDHR and give equal place to the promotion and realisation of ESCRs. This is required to reduce the capability of the global challenges to cause cost-of-living crises.

As to structure, this article first argues that poverty constitutes a perma-crisis that precedes, contributes to, and exacerbates the impact of other crises. It suggests that the current cost-of-living crisis has been recognised as such only because it has caused more widespread poverty which impacts those who were previously just about managing. This spread of poverty has also come to impact the 'undeserving' poor and it is argued that this too has contributed to the recognition of a cost-of-living crisis. Thus, the cost-of-living crisis may be understood merely as the intensification of poverty. The cause of this intensification of poverty has been a lack of resilience to 'market shocks'. The following section illustrates the links between poverty and human rights and argues that this lack of resilience, or rather vulnerability, is attributed to a failure to recognise the promise of the UDHR towards ESCRs. The final section,

³ Nolan 'Human Rights and the Cost-of-Living Crisis' (2023) 41 Netherlands Quarterly of Human Rights 3, p.12.

⁴ Philip Alston, "The Parlous State of Poverty Eradication: Report of the Special Rapporteur on Extreme Poverty and Human Rights (Advance Unedited Version)" (United Nations 2020) A/HRC/44/40, at [1].

before the conclusion, argues that to build the resilience required to avoid future cost-of-living crises there is a need to address the underlying poverty which set the conditions for the cost-of-living crisis: that is to fulfil the promise of the UDHR and ensure the realisation of the ESCRs required to avoid poverty. Towards this end, this article does not criticise systems of civil and political rights protection – which are largely incapable of addressing these issues – but rather criticises the lack of parity with which systems of ESCR protection are treated.

POVERTY: A COST-OF-LIVING PERMA-CRISIS

When essential goods and services are generally accessed through the operation of the market, the ‘cost-of-living’ crisis describes the situation through which increasing numbers of people have been ‘priced out’ of these ordinary market processes due to rising costs and/or reduced incomes. This results in them being unable to afford the cost-of-living and represents the economic non-accessibility, that is unaffordability, of essential goods and services. This unaffordability represents, rather than is caused by, the cost-of-living crisis. The cause of this unaffordability is, in the context of the current cost-of-living crisis, partly the increase in the costs of essential goods and services (inflation) as a result of shocks to the global market. These shocks have occurred in the form of other crises and the cost-of-living crisis forms part of a polycrisis or rather a ‘simultaneous occurrence of multiple, overlapping crises, which interact so that the whole of their impact is greater than the sum of their parts’.⁵ These various crises have coalesced to ‘negatively affected all human rights, inducing wider and deeper poverty within UK society’.⁶ It is this widening and deepening of poverty in UK Society, rather than the emergence of a new previously unencountered issue, which has been labelled the cost-of-living crisis. To address the cost-of-living crisis and its associated implications for human rights there is therefore a need to address poverty.

It is only in the context of this polycrisis that poverty has been labelled the cost-of-living crisis.⁷ Yet even before the recognition of this cost-of-living crisis, poverty, extreme poverty, and destitution were rising in the UK.⁸ Increasingly individuals were unable to afford

⁵ Nolan ‘Human Rights and the Cost-of-Living Crisis’ (2023) 41 *Netherlands Quarterly of Human Rights* 3, p.5.

⁶ Amanda Cahill-Ripley and Luke D. Graham, “Using Community-Based Truth Commissions to Address Poverty and Related Economic, Social and Cultural Rights Violations: The UK Poverty Truth Commissions as Transformative Justice” [2022] *Journal of Human Rights Practice* 225, p.229.

⁷ For an overview of the rising cost of living in the UK see Daniel Harari and others, “Rising Cost of Living in the UK” (House of Commons Library 2023) 9428 <<https://researchbriefings.files.parliament.uk/documents/CBP-9428/CBP-9428.pdf>> accessed 20 October 2023.

⁸ Suzanne Fitzpatrick and others, “Destitution in the UK 2020” (Joseph Rowntree Foundation 2021) 2; see also Mike Brewer and others, “The Living Standards Outlook 2021” (Resolution Foundation 2021) p.6.

the cost-of-living and yet this was not recognised as a crisis to the same degree as the cost-of-living crisis has been recognised. This is indicative that some poverty – that is some inability to meet the cost-of-living for some people – was regarded as acceptable in the public consciousness. Indeed, not only was poverty a growing issue but it was also longstanding. Writing in 1914, Robert Tressell contemplated that ‘a very great number – in fact, the majority of the people – *lived on the verge of want*; and that a smaller but still a very large number lived lives of semi-starvation from the cradle to the grave; while a yet smaller but still very great number actually died of hunger’.⁹ This notion of being on the verge of want is another part cause of the cost-of-living crisis. The rising costs – stemming from the polycrisis – have combined with this underlying poverty to cause the cost-of-living crisis. Not only through pushing the already impoverished into deeper poverty but also through pushing many of those who were previously just getting by, those on the verge of want, into poverty.

This notion of being on the verge of want evokes the theme of vulnerability and, relatedly, resilience. This engages Professor Martha Fineman’s ‘concept of vulnerability and the idea of a vulnerable subject’.¹⁰ From its beginnings as ‘a stealthily disguised human rights discourse’,¹¹ this theory tasks the State ‘with a responsibility to establish and monitor social institutions and relationships that facilitate the acquisition of individual and social resilience’.¹² In the context of the cost-of-living crisis, it is evident that there was a lack of resilience to the impact of other crises, which has led to those on the verge of, entering into, want. In the context of access to justice, but equally applicable here, viewed through the lens of vulnerability theory ‘it is possible to appreciate that large sections of society are now experiencing a lack of resilience in the sense of finding themselves suddenly in need’.¹³ This lack of resilience can be attributed not only to inherent vulnerability but also to the extent to which individuals are denied or enabled access to ‘the resources required for resilience’.¹⁴ As such, the cost-of-living

⁹ Robert Tressell, *The Ragged Trousered Philanthropists* (Ware: Wordsworth Editions Limited 2012) p.38. *Emphasis added*.

¹⁰ Martha Fineman, “The Vulnerable Subject: Anchoring Equality in the Human Condition Essay” (2008) 20 Yale Journal of Law and Feminism 1; Martha Fineman, “The Vulnerable Subject and the Responsive State” (2010) 60 Emory Law Journal 251.

¹¹ Fineman, “The Vulnerable Subject and the Responsive State” (2010) 60 Emory Law Journal 251, p.255.

¹² Martha Fineman, “Vulnerability and Inevitable Inequality” (2017) 4 Oslo Law Review 133, p.134.

¹³ Daniel Newman, Jess Mant and Faith Gordon, “Vulnerability, Legal Need and Technology in England and Wales” (2021) 21 International Journal of Discrimination and the Law 230, p.239.

¹⁴ Maeve O’Rourke, “The Manipulation of “Vulnerability:” State Responses to So-Called “Historical” Abuses in Ireland” (2021) 43 Human Rights Quarterly 435, p.436.

crisis cannot be considered in isolation but rather is intimately woven with a long-standing failure to build societal resilience towards poverty.

Not only has there been a failure to build resilience to market shocks – such as those which coalesced to cause the recently labelled cost-of-living crisis – but such resilience has also been undermined by government policies and the United Kingdom has been made especially vulnerable to the effects of a cost-of-living crisis following a decade of austerity.¹⁵ This is because austerity has caused a broader cross-section of society to face barriers to affording the cost-of-living as it both impoverished not only those dependent on welfare but also working families,¹⁶ and ‘broadened the scope of those at risk of’ poverty.¹⁷ Previously, austerity in the UK had been in part based upon the narrative that the impoverished can, ‘if they so wish, improve their own condition through their own choices’.¹⁸ This narrative was used to justify a whole range of social policies which have weakened the social safety net in the United Kingdom.¹⁹ This austerity has reduced the UK’s welfare state to ‘a much more minimalist system of social protection’²⁰ and resulted in a ‘relatively weaker social security system than it entered’ the 2008 global financial crisis.²¹ This relative weakness was representative of increased vulnerability to the impact of broader crises and ‘has exposed the fiction of invulnerability’ to poverty.²² It has done so through highlighting that a lack of resilience (resulting in this crisis in poverty) can occur not as a result of individual failing but rather as a result of ‘unequal access to certain societal structures or the result of unequal

¹⁵ Elsewhere it has been argued that austerity during this period was designed in such a way as to induce destitution. See Chapter 4 of Luke D. Graham, *International Human Rights Law and Destitution: An Economic, Social and Cultural Rights Perspective* (Abingdon: Routledge 2022) pp. 76–95.

¹⁶ Wendy Rose and Colette McAuley, “Poverty and Its Impact on Parenting in the UK: Re-Defining the Critical Nature of the Relationship through Examining Lived Experiences in Times of Austerity” [2019] *Children and Youth Services Review* 134, p.140.

¹⁷ Graham, *International Human Rights Law and Destitution: An Economic, Social and Cultural Rights Perspective* (2022), p.89.

¹⁸ Graham, *International Human Rights Law and Destitution: An Economic, Social and Cultural Rights Perspective* (2022), p.86.

¹⁹ For an overview of changes to social security policy during the period of austerity see Luke D. Graham and Stuart MacLennan, “Tax in Reverse: Financial Support and Social Security during COVID-19” in Ben Stanford and others (eds), *Global Crisis and COVID-19: Rights, Security and Law* (Abingdon: Routledge 2021), pp.120–122; Cahill-Ripley and Graham, “Using Community-Based Truth Commissions to Address Poverty and Related Economic, Social and Cultural Rights Violations: The UK Poverty Truth Commissions as Transformative Justice” [2022] *Journal of Human Rights Practice* 225, p.228; Graham, *International Human Rights Law and Destitution: An Economic, Social and Cultural Rights Perspective* (2022), pp.82–88.

²⁰ Colm O’Cinneide, “Austerity and the Faded Dream of a “Social Europe”” in Aoife Nolan (ed), *Economic and Social Rights after the Global Financial Crisis* (Cambridge: CUP 2014), p.186.

²¹ Rachelle Earwalker and Rebecca McDonald, ‘Briefing: Strengthen Social Security for a Stronger Economy’ (Joseph Rowntree Foundation 2020), p.4.

²² Newman, Mant and Gordon “Vulnerability, Legal Need and Technology in England and Wales” (2021) 21 *International Journal of Discrimination and the Law* 230, p.239.

allocations of privilege and power within those structures’.²³ To reiterate all that has occurred is that a longstanding and neglected issue – poverty – has risen in depth and scale. This has, however, brought into sharp focus the systemic and structural causes of poverty and rebutted the narrative of poverty being an individual failing. It is the rebuttal – or rather the shattering – of this narrative of the deserving poor which has triggered the labelling of a cost-of-living crisis.

POVERTY AND HUMAN RIGHTS

From the perspective of human rights, however, there can be no deserving poor. Human rights belong to all human beings, regardless of conceptions of deservedness and it therefore follows that the idea of the deserving poor is at odds with the universal realisation of human rights. Speaking on the 60th anniversary of the UDHR, Mary Robinson sought to persuade of the UDHR’s relevance to several contexts which ‘by and large, were not those envisioned by the authors of the Universal Declaration’, one such context was poverty.²⁴ Although the UDHR and ensuing Human Rights Instruments do not include an explicit right to be free from poverty,²⁵ because the living conditions faced by those experiencing poverty ‘demonstrate violations of a large variety of human rights’, if the guarantees contained within the normative framework of international human rights law were fulfilled poor people would be lifted out of poverty.²⁶ Elsewhere it has been argued that the right to an adequate standard of living, the rights which derive from this provision, and the right to social security are required to avoid destitution.²⁷ Poverty, which is less severe than destitution, has been interpreted more broadly by the United Nations Committee on Economic, Social, and Cultural Rights (CESCR) which endorses a ‘multi-dimensional understanding of poverty’, defining it:

as a human condition characterized by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights.²⁸

²³ Fineman, “Vulnerability and Inevitable Inequality” (2017) 4 Oslo Law Review 133, p.147.

²⁴ Mary Robinson, “Taking Stock of the Human Rights Agenda Sixty Years On Symposium: Reflecting on the 60th Anniversary of the Universal Declaration of Human Rights” (2009) 24 Maryland Journal of International Law 1, p.6.

²⁵ Cahill-Ripley and Graham, “Using Community-Based Truth Commissions to Address Poverty and Related Economic, Social and Cultural Rights Violations: The UK Poverty Truth Commissions as Transformative Justice” [2022] Journal of Human Rights Practice 225, p.227.

²⁶ Sigrun I Skogly, ‘Is There a Right Not to Be Poor?’ (2002) 2 Human Rights Law Review 59, pp.73–74.

²⁷ Graham, *International Human Rights Law and Destitution: An Economic, Social and Cultural Rights Perspective* (2022), see chapter 3, pp. 49-75.

²⁸ Committee on Economic and Social Rights CESCR, “Substantive Issues Arising in The Implementation of The International Covenant on Economic, Social and Cultural Rights: Poverty and The International Covenant on Economic, Social and Cultural Rights” (2001) UN.Doc. E/C.12/2001/10, at [8].

So understood it is apparent that the cost-of-living crisis is nothing more than a manifestation of poverty.

Whilst the CESCR recognises that poverty engages a range of human rights, only the right to an adequate standard of living, which is contained within Article 25 of the UDHR,²⁹ is explicitly mentioned in this provision. This right has been understood to mean living above the context-specific poverty line,³⁰ and the realisation of this right is the antithesis of poverty. It follows that if the right to an adequate standard of living were realised then poverty could not occur. If poverty cannot occur, cost-of-living crises as understood in this article cannot occur. This point is especially pertinent when it is recognised that the right to an adequate standard of living enshrines a ‘right to security in the event of ... *other lack of livelihood in circumstances beyond his control*’.³¹ Livelihood has been understood to relate to survival and standards of living.³² This evokes the idea of structural and systematic causes of poverty and is indicative that the drafters of this provision envisioned that the right would protect against poverty in the face of such causes. It is clear that the text of the provision was explicitly designed to ensure that the right to an adequate standard of living would apply when structural factors – such as a polycrisis – reduce individual capacity to secure their right to an adequate standard of living. As such, the conceptualisation of the right to an adequate standard of living within the UDHR envisioned that this right would be engaged when human beings face poverty due to factors beyond their control. This can be understood to include market shocks caused by global crises.

Even though the text of international human rights provisions offers protection against poverty, this protection does not filter into practice within the United Kingdom. There is a lack of common law or statutory protection against poverty.³³ More so, civil and political rights are

²⁹ United Nations General Assembly “Universal Declaration of Human Rights” (Adopted 10 December 1948 UNGA Res 217 A(III), Article 25 (1) ‘Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control’.

³⁰ Asbjorn Eide, “The Right to an Adequate Standard of Living Including the Right to Food” in Asbjorn Eide and others (ed), *Economic, Social and Cultural Rights: A Textbook*, 2nd edn (Dordrecht: Kluwer International Law 2001), pp.133–134.

³¹ United Nations General Assembly “Universal Declaration of Human Rights” (Adopted 10 December 1948 UNGA Res 217 A(III), Article 25 (1)

³² Frank Ellis, “Household Strategies and Rural Livelihood Diversification”(1998) 35 *The Journal of Development Studies* 1, p.4.

³³ Mark Simpson, Gráinne McKeever and Ciara Fitzpatrick, “Legal Protection Against Destitution in the UK: The Case for a Right to a Subsistence Minimum” (2023) 86 *The Modern Law Review* 465.

prioritised and ESCRs, which better protect against poverty,³⁴ are not directly justiciable. Consequently, those seeking to leverage human rights against poverty in the United Kingdom have often turned to the European Convention on Human Rights (ECHR).³⁵ Such claims have been sought via ‘three principal “gateways”’, that is Articles 2, 3, and 8 ECHR,³⁶ and it is well settled that in certain circumstances some protection can be sought against poverty through specific Convention rights.³⁷ This protection has been limited, however, to certain groups of vulnerable people despite the fact that poverty is itself a form of vulnerability which undermines resilience.³⁸ Clearly, the European Convention on Human Rights, and civil and political rights, do not directly protect against poverty. Rather, as Lord Scott made clear, ‘there is no ECHR right to be provided by the state with a minimum standard of living’³⁹ and poverty has been held to be compatible with the convention. This demonstrates the inability of ‘the European Convention on Human Rights – and the Human Rights Act which enshrines this domestically within the UK – as a tool for tackling’ both poverty and the associated non-realisation of ESCRs within the UK.⁴⁰ Given the limits of the ECHR in responding to poverty, alternative mechanisms have been explored. With respect to preventing destitution, McKeever, Simpson and Fitzpatrick have, for example, suggested the creation of a statutory duty to protect against destitution.⁴¹ Cahill-Ripley and Graham have, concerning accountability and justice for

³⁴ Luke D. Graham, ‘Using a Human Rights Framework to Tackle Destitution: The Component Rights’ in Claire-Michelle Smyth, Richard Lang and Jack Thompson (eds), *Contemporary Challenges to Human Rights Law* (Cambridge Scholars 2020), pp.318–356; Luke D. Graham, ‘The Right to the Continuous Improvement of Living Conditions as a Response to Poverty’ in Jessie Hohmann and Beth Goldblatt (eds), *The Right to the Continuous Improvement of Living Conditions: Responding to Complex Global Challenges* (Oxford: Hart Publishing 2021), pp.65–85.

³⁵ See Colm O’Cinneide, “A Modest Proposal: Destitution, State Responsibility and the European Convention on Human Rights” (2008) 5 E.H.R.L.R 583; Mark Simpson, ““Designed to Reduce People...to Complete Destitution”: Human Dignity in the Active Welfare State” (2015) 1 E.H.R.L.R 66.

³⁶ O’Cinneide, “A Modest Proposal: Destitution, State Responsibility and the European Convention on Human Rights” (2008) 5 E.H.R.L.R 583, p.584.

³⁷ This has been accepted in the British Courts, see the seminal case of *R v Secretary of State for the Home Department ex parte Adams, Tesema and Limbuela* [2005] UKHL 66; This has been accepted also by the European Court of Human rights, see *MSS v Belgium and Greece* [2011] Grand Chamber of the European Court of Human Rights Application no. 30696/09.

³⁸ L.D. Graham “The gatekeeping function of vulnerability in public law and human rights” (2024) Apr *Public Law*; see also K. Morris “Vulnerability, Care Ethics and the Protection of Socioeconomic Rights via Article 3 ECHR” (2023) 23 (4) *Human Rights Law Review* 1.

³⁹ *ex parte Adams, Tesema and Limbuela* [2005] UKHL 66, at [66]; See also Peter Billings and Richard A Edwards, “R. (Adam, Limbuela and Tesema) v Secretary of State for the Home Department - a Case of “Mountainish Inhumanity”?” (2006) 13 *Journal of Social Security Law* 169.

⁴⁰ Graham, *International Human Rights Law and Destitution: An Economic, Social and Cultural Rights Perspective* (2022), p.20.

⁴¹ Simpson, McKeever and Fitzpatrick “Legal Protection Against Destitution in the UK: The Case for a Right to a Subsistence Minimum” (2023) 86 *The Modern Law Review* 465.

poverty, explored the use of Community Based Poverty Truth Commissions.⁴² Graham has argued that human rights must address poverty from the perspective of ESCRs as opposed to civil and political rights.⁴³ Similarly, this article proposes that there is a need to fulfil the promise of the UDHR by better realising ESCRs to address poverty and through doing so build societal resilience to address the current, and to prevent future, cost-of-living crises.

FULFILLING THE PROMISE OF THE UDHR TO ADDRESS THE POVERTY PERMA-CRISIS AND BUILD RESILIENCE TO CRISES

The cost-of-living crisis has been the intensification in both depth and scale of poverty and evidences a lack of resilience, and state responsiveness, to poverty. From the perspective of human rights, this lack of state responsiveness has been partly caused by the marginalisation of ESCRs. This marginalisation is at odds with the aspirations of the UDHR. Speaking on the 60th anniversary of the UDHR, near fifteen years ago at the time of another global crisis (the 2008 global financial crisis), Robinson recognised that one of the two ways in which the UDHR ‘distinguishes itself from other great constitutional documents’ is through the recognition that ‘human rights were not only universal but also indivisible-that is, civil and political rights, on the one hand, and social, economic, and cultural rights, on the other’.⁴⁴ The hopeful suggestion made by Robinson fifteen years ago that ‘we are at a stage where there is a potential both to make the "true agendas" of human rights-the balance between civil and political rights and economic, social, and cultural rights-more respected and implemented in practice’ has not been realised.⁴⁵ This is of course in part due to the non-legally binding nature of the UDHR.⁴⁶

However, from the CESCR’s definition of poverty above, it is clear that poverty is a human rights issue: one which transcends distinctions between *civil and political rights* and *ESCRs*. In practice, however, there exists an imbalance between civil and political rights and ESCRs. It is this failure to live up to the promise of the UDHR which has allowed the cost-of-

⁴² Cahill-Ripley and Graham, “Using Community-Based Truth Commissions to Address Poverty and Related Economic, Social and Cultural Rights Violations: The UK Poverty Truth Commissions as Transformative Justice” [2022] *Journal of Human Rights Practice* 225.

⁴³ Graham, *International Human Rights Law and Destitution: An Economic, Social and Cultural Rights Perspective* (2022), see chapter 6, pp.121-151.

⁴⁴ Robinson “Taking Stock of the Human Rights Agenda Sixty Years On Symposium: Reflecting on the 60th Anniversary of the Universal Declaration of Human Rights” (2009) 24 *Maryland Journal of International Law* 1, p.4.

⁴⁵ Robinson “Taking Stock of the Human Rights Agenda Sixty Years On Symposium: Reflecting on the 60th Anniversary of the Universal Declaration of Human Rights” (2009) 24 *Maryland Journal of International Law* 1, p.14.

⁴⁶ Tom Obokata and Rory O’Connell, “Ambition, Achievement and Potential: The UK and the Universal Declaration of Human Rights at Sixty” (2010) 14 *The International Journal of Human Rights* 394, p.395.

living crisis to take hold. Consequently, the potential of these rights not only to respond to the cost-of-living crisis but also to serve to prevent future cost-of-living crises is not being realised. Realising the promise of the indivisibility of civil and political rights and ESCRs – thus redressing the neglect of ESCRs – is required to realise the promise of the UDHR.

Currently, however, the UDHR (and most ESCRs) are not directly justiciable in the United Kingdom. This non-justiciability of ESCRs undermines the effective implementation of ESCRs.⁴⁷ This in turn reduces state responsiveness to the non-realisation of ESCRs, including towards poverty, which reduces societal resilience. This reduced societal resilience exacerbates the impact of broader crises which creates the context in which cost-of-living crises can – and will continue to – occur. When, from the perspective of ESCRs, justiciability is understood to mean the extent to which an alleged violation of ESCRs ‘is suitable for judicial or quasi-judicial review at the domestic level’.⁴⁸ The justiciability of ESCRs requires that ESCRs are given legal status (recognised) and secondly that the courts are willing to deliver judgment enforcing the realisation of such rights (responsiveness).⁴⁹ The UK courts largely do not recognise or respond to ESCRs based claims directly. This is for a range of complex, and often constitutional, reasons including, *inter alia*, ‘budgetary implications’⁵⁰ and related questions over the separation of powers.⁵¹ In the UK this has manifested itself in the courts being ‘concerned to be seen as interfering unduly in areas of economic and social policy deemed to be the prerogative of the legislature’.⁵² To echo Simpson et al, it is for Parliament to take action to incorporate protection against poverty.⁵³ However, rather than statutory

⁴⁷ Yves Berthelot, “Economics and Human Rights – Two Separate Worlds?” in Wenche Barth Eide and Uwe Kracht (eds), *Food and Human Rights Development: Volume II* (Cambridge: Intersentia 2007), p.19; Margit Tveiten, “Justiciability of Socio-Economic Rights: Reflections on Norwegian and South African Debate and Experience” in Wenche Barth Eide and Uwe Kracht (eds), *Food and Human Rights Development: Volume I* (Cambridge: Intersentia 2006), p.163.

⁴⁸ Fons Coomans, “Some Introductory Remarks on the Justiciability of Economic and Social Rights in a Comparative Constitutional Context” in Fons Coomans (ed), *Justiciability of Economic and Social Rights* (Cambridge: Intersentia 2006), p.4.

⁴⁹ Malcolm Langford, “Judicial Review in National Courts: Recognition and Responsiveness” in Eibe Riedel and others (eds.), *Economic, Social and Cultural Rights in International Law* (Oxford: OUP 2014), p.419.

⁵⁰ Tveiten, “Justiciability of Socio-Economic Rights: Reflections on Norwegian and South African Debate and Experience” in *Food and Human Rights Development: Volume I* (2006), p.170.

⁵¹ Coomans, “Some Introductory Remarks on the Justiciability of Economic and Social Rights in a Comparative Constitutional Context” in *Justiciability of Economic and Social Rights* (2006), pp.4–5.

⁵² Sally-Anne Way et al., “Economic and Social Rights in the “Great Recession”” Eibe Riedel and others (eds.), *Economic, Social and Cultural Rights in International Law* (Oxford: OUP 2014), p.104; The UK Supreme Court has illustrated such sentiments in the case of *R (on the application of SC, CB and 8 children) v Secretary of State for Work and Pensions and others* [2021] UKSC 26.

⁵³ See Simpson, McKeever and Fitzpatrick “Legal Protection Against Destitution in the UK: The Case for a Right to a Subsistence Minimum” (2023) 86 *The Modern Law Review* 465.

protection against destitution this article advances the claim that Parliament should incorporate the ESCRs required to avoid poverty into domestic law, thus providing recognition and responsiveness to ESCRs.

Not only is this required to meet the promise of the UDHR but, also, realising ESCRs can serve to increase societal resilience to global and societal crises. Indeed, vulnerability theory emphasises ‘the importance of the state's acceptance of responsibility for creating and supporting systems that promote resilience across the lifespan and across populations’.⁵⁴ It has been suggested that ‘Improving the material living conditions of the poor may, therefore, improve the broader living conditions of all in society’.⁵⁵ This constitutes a utilitarian argument. However, as the analysis in this article makes clear, improving the material living conditions of the most disadvantaged in society offers the potential to build societal resilience to future cost-of-living crises. This is because when market shocks occur, less people would be on the verge of want and as such market shocks would not undermine the affordability of essential goods and services. In understanding poverty as the non-realisation of a range of human rights, it follows that reduced poverty – and the improved realisation of human rights which would stem from this – are conducive to greater resilience within society. This constitutes a more principled and normative argument – beyond this utilitarian one alone – in support of building societal resilience to cost-of-living crises through the incorporation – and stronger realisation – of ESCRs.

CONCLUSION

Whilst there is a great deal to celebrate on the 75th anniversary of the UDHR there remains much work still to be done towards fulfilling the promise of this foundational instrument of international human rights law. The 75th anniversary of the UDHR has coincided with an intensification in depth and scale of poverty. This intensification of poverty has been labelled a cost-of-living crisis. Yet, an inability to meet the cost-of-living – that is poverty – is both prevalent and prolonged and long predates the recognition of this crisis. Accordingly, this article has suggested that it is poverty itself, rather than the intensification of poverty, which should be recognised as a crisis: or, more accurately, a perma-crisis. The intensification of this

⁵⁴ Nina A Kohn, “Vulnerability Theory and the Role of Government” (2014) 26 Yale Journal of Law and Feminism 1, p.9.

⁵⁵ Graham, “The Right to the Continuous Improvement of Living Conditions as a Response to Poverty” in *The Right to the Continuous Improvement of Living Conditions: Responding to Complex Global Challenges* (Oxford: Hart Publishing 2021), p.83.

perma-crisis – labelled the cost-of-living crisis – has occurred because of a lack of societal resilience to market shocks stemming from a broader polycrisis. This lack of societal resilience exists because ESCRs have been neglected resulting in higher rates of poverty and higher rates of people on the verge of poverty. In sum, greater state recognition of, and responsiveness to, ESCRs would ensure greater resilience to market shocks (and crises) which in turn will prevent future cost-of-living crises. The alternative is to continue onwards lacking such resilience, all but making future cost-of-living crises inevitable. Not only would greater state recognition of, and responsiveness to, ESCRs foster social resilience to prevent future cost-of-living crises but this would also serve to fulfil the promise of indivisibility as envisioned by the UDHR.