

The Rt Hon David Milliband, MP
Secretary of State
Foreign and Commonwealth Office
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25 March 2008

We are writing to you regarding the development of an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR) currently being negotiated by the Working Group of the Human Rights Council for an OP-ICESCR. As you know, the Working Group is due to discuss a third draft of the OP-ICESCR at the Fifth Session (Part Two) of the Working Group which meets between 31 March and 4 April. The aim of such a protocol would be to provide individuals and groups with a means to seek and obtain a remedy for violations of economic, social and cultural rights at the international level, where they are denied one domestically. A similar mechanism has existed with respect to civil and political rights for many years.

We consider that the adoption of a comprehensive and effective optional protocol is of the greatest importance in securing such rights, rights to health, to education, to shelter, around the world. Indeed, in this 60th anniversary year of the Universal Declaration of Human Rights, the adoption of the OP-ICESCR represents a major step forward in the global call for access to justice for victims of all human rights violations. We also believe that UK support for a comprehensive approach to the OP-ICESCR would send a strong signal to the international community that the UK Government is committed to all rights and that international institutions such as the new UN Human Rights Council can be effective bodies for remedying such injustices.

Several aspects of the protocol remain to be decided, including the scope of the mechanism, the admissibility of communications and standard of review. To date the UK Government has argued for the scope of the protocol to be limited, using an “a la carte” approach, under which states would be able to select which rights in the Covenant they would like the protocol to apply. It has also argued for a particularly high threshold for admissibility of complaints or a standard of review which would make it difficult for victims to have their complaints heard and obtain remedies. Neither the “a la carte” approach, nor this height of admissibility threshold exists with respect to other UN human rights treaties. The UK Government’s position on Inquiry Procedures, whereby it is not convinced of the need for such mechanisms, is also a matter of concern. Overall, we have concerns that the UK Government would, in addition, seek to see negotiations in fact delayed.

It is our belief that delaying the adoption of or enshrining into law a different standard of Optional Protocol to that of other UN human rights treaties would set an unfortunate precedent and suggest that UN states consider economic, social and cultural rights to be of secondary importance to civil and political rights. This in turn would undermine the progress being made worldwide to strengthen the implementation of economic, social and cultural rights. Likewise, it would fail to recognise the growing body of national and regional jurisprudence which clearly shows that violations of economic, social and cultural rights are capable of adjudication. The very real practical value of examining judicially the application of these rights in individual cases by an international body would also be denied.

In January this year, the UN Secretary-General called on world leaders to make 2008 the year of “bottom billion”. He will host a high-level meeting in September 2008 to re-energise the world’s commitment to the Millennium Development Goals. As the year unfolds, a growing majority of states support an effective and comprehensive OP-ICESCR. This includes all African, Latin American and Caribbean states, as well as the majority of European and an increasing number of Asian states. Attached to this letter is a further appeal on this issue from over 250 NGOs and others from around the world. The OP-ICESCR is also an essential tool of their work and one which they would urge you to support.

The UK Government is proud of its record on international development; and avowedly operates a Rights Based Approach to its work. It speaks of the importance of accountability of governments in achieving this and of individual empowerment if it is to be sustained. The development of an effective optional protocol is a vital part of both of these processes. We urge you to take this opportunity to show your support for individuals living in poverty; and not deny those that need it most a valuable tool in this regard.

Thank you for giving this issue your consideration. We have had a most constructive dialogue with the UK Government about this important subject to date. Please do not hesitate to contact us if you would like to discuss the issue further.

Yours sincerely

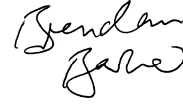
A handwritten signature in black ink, appearing to read 'Richard Blewitt', with a stylized flourish above the name.

Kate Allen, Director
Amnesty International UK

Richard Blewitt, Chief Executive Officer
Helpage International



Tom Porteous, London Director
Human Rights Watch



Brendan Barber
General Secretary, TUC



Matthew Davis, National Coordinator
ATD 4th World



Professor John Packer, Director
Human Rights Centre, University of Essex



John Hilary, Director of Campaigns & Policy
War on Want

Mark Muller, QC, Chair
Bar Human Rights Committee

Susan Wright, Director
Medecins du Monde UK

ActionAid

Save the Children

cc. The Right Hon Douglas Alexander MP, Secretary of State, Department for
International Development
The Rt Hon Mark Malloch-Brown KCMG, Minister for Africa, Asia and the
UN, Foreign & Commonwealth Office