

**Submission of the United Kingdom to the Committee on Economic, Social and Cultural Rights on the Draft General Comment on State Obligations under the ICESCR in the Context of Business Activities**

The Government of the United Kingdom refers to the invitation of the Committee on Economic, Social and Cultural Rights to submit written contributions to the General Discussion on the Draft General Comment on State Obligations under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities.

The United Kingdom is a strong supporter of the non-binding framework for the promotion of business and human rights, the United Nations Guiding Principles on Business and Human Rights. These guidelines set out clearly the obligations of Government and the responsibilities of businesses. The United Kingdom became the first country in the world to publish a National Action Plan to implement the UNGPs, in September 2013, and we produced an updated version in May 2016.

In responding to the invitation to contribute to the General Discussion we will limit our comments to broad matters of policy rather than specific drafting suggestions. However, the absence of specific comments on elements of the draft General Comment should not be interpreted as agreement or disagreement with the substance contained.

**OBLIGATIONS OF STATE PARTIES**

The United Kingdom does not consider that the ICESCR contains an obligation on States to directly incorporate the Covenant into domestic law by means of bespoke legislation. Furthermore, the UK does not automatically incorporate into domestic law the treaties it is a party to, instead giving effect to them through appropriate legislation and administrative measures.

Whilst we strongly support the UNGPs as a framework for corporate responsibility in relation to human rights we do not accept that these create a legal obligation for States to establish human rights standards for business actors. Similarly we do not

believe that State Parties should adopt legal frameworks around human rights due diligence by business. We have, however, strongly supported the development of standards, benchmarks, due diligence guidance and other similar voluntary measures. This supports our view that whilst the State has certain obligations under the first pillar of the UNGPs this does not detract from the responsibility businesses have for their own activities as set out in the second pillar. Similarly we do not believe the State has a legal obligation to provide goods and services, or regulate the affordability of private sector services, other than where it chooses to do so.

### **DIRECT STATE RESPONSIBILITY**

We strongly support the written submissions of the Norwegian Government in respect of direct state responsibility, which were submitted to the Committee on 18 January 2017.

### **EXTRATERRITORIAL OBLIGATIONS**

The Covenant does not contain an overarching Article setting out the territorial scope of State Parties' obligation. Article 14 is the only Article that mentions territorial scope and limits such scope to the metropolitan territory or other territories under the State Party's jurisdiction. The absence of limits to territorial scope in other clauses, or an overarching limiting clause, should not be taken as an assumption or an acceptance of extra-territorial dimensions to the Covenant. The United Kingdom takes the view that the obligations under the Covenant are primarily territorial and do not have extra-territorial effect.

### **REMEDIES**

The UK has a culture of human rights awareness and protection and our range of remedy mechanisms is diverse.

We recognize that remedy may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions, as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition. The UK has a range of judicial mechanisms that help to support access to remedy for human rights abuses by business enterprises both at home and overseas. This includes:

- Employment Tribunals provide access to remedy for abuses of labour rights;
- Avenues to pursue civil law claims in relation to human rights abuses by business enterprises;
- Specific criminal law provisions, including under the Bribery Act 2010, Modern Slavery Act 2015, Serious Crime Act 2007, Corporate Manslaughter and Corporate Homicide Act 2007 and Gangmasters (Licensing) Act 2004.

We thank the Committee for the opportunity to comment on the Draft General Comment and look forward to further discussions on this important subject.

31 January 2017