

Submission to the Review of the White Paper on Irish Aid

Introduction

I have a tremendous respect and admiration for the Irish Aid organisation and those who work for it, and I hope that this submission may in some way contribute to their invaluable work.

I am familiar with the work of Irish Aid and the White Paper, having worked for 21 months on the Irish Aid Programme in Ethiopia and Ireland, and having previously worked for some months in the Irish Aid Information and Volunteering Centre. I have also worked for human rights, civil society, international relations and political organisations as well as within the Houses of the Oireachtas. I have completed a Masters at the Irish Centre for Human Rights, where I focused in particular on Economic, Social and Cultural Rights, and completed a thesis on the topic of the prospect of rights-based approaches to development, looking in particular at the cases of Ireland and Norway.

Over the past months, since attending the first public consultation session for the consultative process in Limerick, I have sought out and discussed the White Paper with a number of academics, including from the London School of Economics, Middlesex University, University of Leiden, National University of Ireland, Galway and the Irish Centre for Human Rights, as well as approaching many human rights and development practitioners and organisations. Drawing on my personal, academic and work background and experiences, as well as on the reflections of those with whom I met, I hope to offer a perspective on the White Paper that is both interesting and useful.

While appreciating from first-hand experience the valuable contribution that the publication of the White Paper has brought for development practitioners in terms of providing a welcome clarity, purpose and direction to their work, I nevertheless am deeply concerned that in its current format, the White Paper falls down to a worrying degree in terms of Ireland's stated commitment to pursue the protection of human rights.

The main body of my contribution will be an attempt to illustrate and address these shortcomings in the White Paper, most notably by pointing out the need for Irish Aid to move from a needs-based perspective towards a human rights-based perspective and outlining how Irish Aid might begin to operationalise such a transformation.

I have also included a separate note on how Irish Aid might address the needs and rights of Pastoralist communities.

A Human Rights Approach to Development [HRBA]

Context

As a signatory to a number of international human rights instruments, Ireland has agreed to fulfill a variety of legal and human rights obligations. These human right commitments extend to Ireland's foreign policy and development assistance programme, and indeed the Irish Government freely acknowledges as much in its White Paper. Scattered throughout are expressions of Ireland's commitment to support human rights through its development cooperation programme:

"The White Paper emphasizes...our longstanding commitment to human rights" (P.4)

"Guiding Principles...Ireland will support... the promotion and protection of human rights" (P. 9)

"The promotion of human rights, directly and indirectly, will continue to be central to Ireland's foreign policy and all the work of Irish Aid" (p.59)

"Irish Aid programmes and projects should further the realisation of human rights" (p.59)

However, a closer examination of development assistance in practice indicates that such references to human rights are being invoked reflexively and for the purposes of rhetorical flourish, and are not indicative of any deeper commitment to place human rights values and perspectives at the core of the Irish Aid Programme

In those sections justifying the Irish Aid programme - Why give Aid? and - The Case for Aid – there is a conspicuous absence of any mention of human rights., Instead the Paper trumpets a needs-based approach to development that sets out Irish Aid's credentials as a service delivery provider. Such an approach to development, has as its principal goal the delivering of services (i.e. building hospitals, training medical professionals)to address an identified need (e.g lack of quality health care). However, this approach invariably reinforces a perspective whereby beneficiaries come to be viewed as passive recipients of help and not dynamic actors who can be empowered to bring about change in their own lives, communities, and societies.

Rights based approaches to development recognize that poverty is multi-dimensional: it is not just about low income, but also about vulnerability, insecurity and the inability to make oneself heard – RBA help state and non-state actors realize their responsibilities to respect, protect, promote and fulfill

citizens rights: help donors identify how pro-poor political change can be supported: and help translate human rights principles into reality (ODI, 2003)

It is certainly true to say that “spending on development is spending on human rights” (p.59) and in providing access to education, health services, clean water, housing and better government, Irish Aid can justifiably claim to be helping some of the poorest people in the world to realize their rights every day. However, its needs-based approach ensures it cannot assert to be empowering as well as aiding the most marginalized and it cannot be credibly claimed that “the promotion of human rights, directly and indirectly, is *central* (as opposed to simply considered) in Ireland’s foreign policy and all the work of Irish Aid” (p.59).

It is instructive that the UN independent expert on human rights, in her report on her visit to Ireland last year acknowledged the good work of the Irish Aid programme, but noted that Irish Aid was not doing as much as it could to incorporate human rights principles into its policy guidelines and strategies. (A/HRC/17/34/Add.2 - Section 4 para 40)

In order to properly discharge its human rights obligations in the area of development assistance Irish Aid needs to shift from its present welfare or needs-based assistance model towards a rights-based model. A change in this direction would not actually entail a radical or disruptive break, but rather a natural, evolutionary progression in its approach, and would bring many benefits and opportunities.

Ireland, alongside Norway, Sweden, Denmark, Finland, the Netherlands and the UK form the Nordic Plus Donor group - a group of seven ‘like-minded’ donors that share a high degree of similarity in policies and administrative procedures, with similarities in relation to country programme approaches, aid modalities, decentralised operations, programme cycle management, and use of agreements. As a group, they are active supporters of the international declarations on poverty reduction and aid effectiveness, and are universally acknowledged as the international development agencies that lead the way in terms of best practice, effectiveness and innovation.

However, Ireland now finds itself in real danger of falling behind the other Nordic Plus countries, as there has been a large-scale shift among members such as Norway, Sweden, Denmark, and Finland (as well as Germany) following, or are in the process of adopting a rights-based approach, while the UK and the Netherlands have extensively funded research by universities and institutes into rights-based approaches. While the White Paper of 2006 was a progressive and forward-thinking document in its own way, it did not foresee this seismic shift in development perspectives and practice. If Ireland fails to adopt a rights-based approach, it may soon encounter difficulties in working with other Nordic Plus countries with a corresponding increase in transaction costs, reduction in development results, and diminution in political lobbying power.

Benefits of HRBA

A rights based approach to programming will lend a conceptual clarity and coherence to the overall work of Irish Aid, while at an operational level it will offer development practitioners greater direction and purpose in their work

Embracing a rights-based approach will also open up a language or set of rhetorical tools which will be helpful in terms of justifying decisions and explaining actions to other development partners, host government partners, NGOs, implementing partners, and the Irish Public. For example, LGBT communities in Africa often face discriminations and obstacles in accessing social services such as health care. It is a controversy-laden area of development, where perceived clashes of values between host governments and development partners can often get sidelined into political point-scoring affairs that hurt relationships, results and endanger the rights of already vulnerable groups. A rights to health approach provides Irish Aid with a rhetoric to sidestep these difficulties. Rather than appear to be challenging failings based on any clash of cultural values, a rights-based approach allows for demands to be phrased in nuanced, euphemistic terms - such as a request for evidence-based policies which allow non-discriminatory access to health services for Most at Risk Populations.

A rights-based approach will protect Irish Aid and her development practitioners from accusations that they are somehow serving a hidden agenda or imposing foreign values, as there is a transparent means to measure what is after all, a shared commitment, by both Irish Aid and their host government partners, to respect, protect and fulfill obligations that each country has willingly signed up to in international legal agreements. The 1993 World Conference on Human Rights in Vienna deliberately established the duty of States to promote and protect human rights regardless of their cultural systems, - even while noting that particularities of historical, religious background should be borne in mind. Thus while cultural considerations are important and must be recognised, it in no way diminishes States' human rights obligations.

A rights based approach will not entail any extra legal or financial obligations on the part of Irish Aid nor will it even require a radical or disruptive shift in policy or operational practice. Fundamental human rights principles such as transparency, accountability, impartiality, participation, empowerment and non-discrimination are values which are far from alien to Irish aid. Indeed they already constitute the cornerstone of Irish Aid policy and practice. However, explicitly embracing a rights-based approach will strengthen the degree to which these values are reflected in the work of Irish Aid.

Operationalising HRBA

Human rights mechanisms, supports and approaches have advanced tremendously in recent years, and the UN human rights protection system is constantly undergoing development. At one time, human rights instruments may have been somewhat accurately characterised as a set of idealistic and

aspirational values, ambiguously phrased and impossible to practically implement. However, this can no longer be argued to be the case. The rights enshrined in human rights instruments may be set out in terms of general provisions, but in recent years a considerable amount of clarity and purpose has been brought to the various provisions of human rights instruments, through important interpretations of specific rights, as found in the decisions on individual complaints, issued by UN treaty bodies, and in the General Comments they publish.

These General Comments constitute authoritative interpretations and elaborations of what precisely is entailed by the responsibilities and duties of the States Parties to these instruments. Examples include General Comment 12 on the Right to Food; General Comment 14 on the Right to Health; General Comment 15 on the Right to Water; General Comment 19 on Rights to Social Security; General Comment 20 on non-discrimination; General Comment 5 on disability rights; or General Comment 2 on International Technical Assistance. General Comment 3 is notable in that it specifically covers international development assistance, and holds that developed states such as Ireland have a clear and particular obligation towards developing countries to provide international assistance and cooperation towards the realization of economic, social and cultural rights.

By using concrete examples, the Comments clarify the content of human rights obligations, i.e. a state's legal responsibilities to respect, protect and fulfill human rights, as well as illustrating fundamental human rights principles. As such, they can be of great value for development agencies in guiding policy, outlining thematic or sectoral concepts, drawing up priority area strategy papers, and designing programmes. Other European development partners, such as the German Development Cooperation bodies have already accepted this to be the case and are now committed to making use of the General Comments to elaborate country strategy papers and design specific programmes.

Equally, as Ireland looks forward to joining the Human Rights Council, it should reflect on the Special Procedures which are at the core of the UN human rights machinery. The regular thematic and country reports produced by the Special Rapporteurs are a valuable source of information for development practitioners with regard to the status of implementation of civil, political, economic, social and cultural human rights in individual countries. The reports also reflect contemporary human rights debates and evolving standards, and can thus be used to formulate development cooperation targets, benchmarks and indicators for different projects, programmes and sectors.

UN specialised agencies too can offer lessons to Irish Aid in terms of operationalising human rights. The World Health Organisation - with support from InWEnt - is systematically training its employees in integrating the right to health into poverty reduction strategies. Likewise, the Office of the United Nations High Commissioner for Human Rights has developed a methodical approach for quantitative human rights indicators.

Of particular interest to Ireland, given its leadership role in addressing global hunger, should be the development by the Food and Agriculture Office of a set of voluntary guidelines on the right to food. The Voluntary Guidelines represent the first attempt by governments to interpret an economic, social and cultural right and to recommend actions to be undertaken for its realization. The objective of the Voluntary Guidelines is to provide practical guidance to states in their implementation of the realization of the right to adequate food in the context of national food security. The guidelines constitute the most instructive and practical lens through which to elaborate Ireland's obligations and responsibilities towards fulfilling the right to food.

While bearing in mind that human rights do not prescribe any particular course of action as obligatory and provide states a margin of discretion to choose their own implementation policies and programmes, the FAO Guidelines effectively outline the components which should be in place ensure a development programme is effectively acting to realize the right to food. As such, its suggestions are extremely relevant for many of Irish Aid's programmes, including its largest single programme and the anchor programme for Ethiopia and Irish Aid efforts to address global hunger - the Productive Safety Nets Programme. Indeed, at present, although the programme is making clear headway towards realizing the right to food of citizens in Ethiopia, PSNP management, decision-makers and implementers, both from the Ethiopian Government and the Donor side, rarely if ever explicitly acknowledge the PSNP as a programme that addresses the right to food of citizens in Ethiopia. Stakeholders address challenges and bottlenecks exclusively from a programme efficiency or political feasibility standpoint and never adopt a rights-based perspective towards addressing the issues at hand.

It is interesting to note that other development agencies such as German GIS have taken the lead in regard to a human rights based approach, treating the General Comments and other sources such as the FAO Voluntary Guidelines as a ready-made tool kit to employ in designing, planning and implementing its programmes. Irish Aid should be in a position to employ the very same tools in the design, planning and evaluation of its own programmes and projects.

HRBA in practice

Although there is a clear momentum and support behind the shift towards a rights-based approach from development agencies and NGOs alike and a growing number of expressions of political support from key policy and decision makers, it is only in recent years that human rights based approaches have begun to be directly applied in the field. Nevertheless, what examples that are available offer extremely encouraging signs of the benefits of such an approach.

While in non-rights based projects, partnership usually takes the form of an NGO/CSO liaising and mediating between citizens and official organisations, in RBA projects, there is a greater emphasis on linking citizens and state (voice and response) directly. Non-RBAs tend to focus on changing the immediate negative circumstances of poverty, so as to produce positive development benefits,

without expending much time or energy on trying to change the underlying causes of poverty. In contrast, RBAs are based on the belief that sustainable development will not be possible unless the conditions of international human rights instruments are fulfilled, and so the standards set by these instruments form the scaffolding supporting all rights-based work.

The DFID-funded UK Interagency Group on Human Rights Based Approaches (IAG) conducted a number of projects, over a number of years in Malawi, Bangladesh and Peru to compare rights-based and traditional welfare-based projects and programmes, and it led them to a number of interesting conclusions. (‘The Added Value of Rights-based Approaches to Development’ (2007) The UK Interagency group on Human Rights Based Approaches)

The study noted that while both sets of projects made an impact in terms of improving the lives of poor people, the results reached through RBA proved of a deeper, empowering and more sustainable kind in a variety of ways. The increased knowledge and skills achieved in RBA projects led to those acquired skills and knowledge being transferred to non-project based issues and actions. The increased social and political capital led to an increased ability to take, negotiate and manage risk.

In working for the rights of poor and marginalised people, the RBA projects inevitably engaged with power issues. The RBA project helped to embed improved accountability and willingness to fulfil obligations by power holders and by citizens. It increased political agency for marginalised groups and redefined citizenship. The most interesting finding of all perhaps was that when people’s agency is meaningful, and part of a process of improving accountability of all stakeholders, it appears to increase stability and promote social cohesion rather than cause conflict

German Development Partners experience in Kenya with RBA on water programmes has likewise shown positive results. The approach was found to add legitimacy and legality to pro-poor strategies and helped gear the legal and institutional framework accordingly. It was additionally noted that this is particularly needed where commercialisation and private sector participation is called for and the policy level lacks capacity in ensuring that social responsibilities are taken up – circumstances which are the case in many of Irish Aid’s partner countries. The approach proved not to be difficult to integrate it into policies and practices and added demonstrable value. As a result of the positive Kenyan experiences, GIS is now set to replicate this approach in other countries in East Africa.

Conclusion

While Irish Aid can rightly be proud of the calibre of its development specialists and in their ability to consistently deliver good development programming and results, adding a human rights lens will not entail much extra work, or delay in programming, and will allow Irish Aid to know with confidence that it is helping to fulfill Ireland human rights obligations, bolstering aid effectiveness and

coherence, improving working relationships with other key international development partners, and better allowing Irish Aid to communicate its work to Irish citizens.

Recommendations - Ways of Working

- Ireland should follow the lead of other International development agencies, by developing a human rights action plan, to focus development cooperation more systematically on the realization of political, civil, economic, social, and cultural rights.
- Encourage viewing of Human rights as a holistic approach to programming rather than a discrete thematic sector.
- Approach International Development Partners such as NORAD, SIDA, FINIDA, DANIDA and German Development Bodies for advice and assistance on operationalising a rights-based approach to development
- Apply a Human rights lens during the design, planning, monitoring, evaluation and results assessment phases of projects and programmes
- Make use of General Comments as tools to guide policy, elaborate thematic and sectoral concepts, and design country strategy papers, programmes and projects.
- Use UN Human Rights Council Special procedures to formulate development cooperation targets, benchmarks and indicators for different projects, programmes and sectors
- Employ human rights tools developed by UN Specialist agencies, International Development Agencies, and other organisations wherever relevant
- Undertake training of practitioners at HQ and country level on HRB approaches and use of practical human rights tools
- Ensure major programmes are assessed in advance and after completion for their impact on human rights of intended beneficiaries..
- Establish a senior position for a human rights advisor within the framework of Irish Aid
- Strengthen the Human Rights Unit in the DFA and institutionalise a formal relationship between the Human Rights Unit and Irish Aid.

Separate Note on issue of addressing Pastoralist Needs

I wish to make this submission on the specific issue of addressing Pastoralist Communities needs, which although largely neglected by Irish Aid thus far represents an issue of emerging importance and relevance for the work of Irish Aid, and indeed is an issue which if ignored or handled improperly, could harm the work of Irish Aid or even damage its reputation.

Global Context

Pastoral production takes up some 25% of the world's land area and produces some 10% of the meat used for human consumption, while supporting some 20 million pastoral households, with Pastoral production in Africa based on open-access systems by 'traditional' producers. Although pastoralists represent an almost archetypically vulnerable social group, donor interest is minimal. (Belch)

Pastoralists tend to be politically marginalised, with communities being viewed by States, especially centralized, authoritarian ones, with a mixture of suspicion and contempt. Pastoralists are highly mobile, often come from military traditions, and invariably have not historically been loyal subjects of nation-states. The free movement of their livestock has been seen both as a security and health threat on the one hand and as a potential loss of national wealth on the other.

The rangelands exploited by pastoralists often cannot be used by conventional agriculture, although pastoralists are forced into increasingly inhospitable terrain. National governments are often hostile to pastoralists and employ policies of sedentarisation that derive as much from political considerations as a concern for the welfare of those they wish to settle. (Blench) However, compelling pastoral nomads to settle has a very unsatisfactory history, often provoking fierce resistance and sowing conflict and offering scant prospect of meeting with long-term success. Devereux outlines this clash of values and perspectives in the Ethiopia context, where 'the instincts of the government are to intervene and regulate, while the instincts of pastoralists are flexible and contingent. (Devereux 2006. 169)

Pastoralists also find themselves legally disadvantaged. While settled farmers usually develop relatively explicit systems of tenure, many pastoral peoples have fluid systems that are hard to pin down, in keeping with their opportunistic grazing strategies. This leads to pastoralists being disadvantaged in legal terms. Pastoralists are not deemed to have tenure sufficiently strong that it cannot be overridden by the state for a variety of reasons including the search for minerals, infrastructural developments, the gazetting of national parks, or increasingly - commercial land grabs by foreign corporations.

Pastoralists are particularly affected by droughts, which inevitably cause significant humanitarian problems and localised degradation, since large numbers of animals converge on certain pastures, especially around wells. This in turn is responsible for

long-term impoverishment among pastoralists, since they must sell animals cheaply and cannot afford to re-buy them when the drought ends. It also places an unbearable stress on veterinary services, and feeds into inter-ethnic conflict.

Pastoralists make substantial contributions to the economy of developing countries, both in terms of supporting their own households and in supplying protein, both meat and milk, to villages and towns, but governments of those countries rarely recognise these contributions with a corresponding investment or support. Indeed in the vast semi-arid areas of much of the Horn of Africa, pastoralism and afro-pastoralism are the dominant mode of livelihood. A burgeoning demand from Gulf States and infrastructural improvements to key ports such as Djibouti, Bosaso, and Berbera have led to the livestock trade and related processes such as husbandry providing jobs and livelihoods for the majority of people in the region.

Irish Aid Context

Irish Aid in its consultation paper recognises that low-income countries in situations of fragility (more vulnerable to internal and external shocks) are at risk of falling into an ongoing cycle of poverty. It further notes that poverty and vulnerability will be further exacerbated by the ongoing impacts of climate change and additionally acknowledges the threat to food security caused by droughts in the Horn of Africa. However, it fails to mention the particular marginalised communities most affected by these challenges of fragility, climate change, hunger, and a lack of human rights protection – Pastoralists

Irish Aid is increasingly finding that the majority of its humanitarian funding, directly or indirectly through partners, is no longer taken up with dealing with rapid onset emergencies, but is dedicated to responding to slow-onset emergencies in drought-affected areas of Sub-Saharan Africa. Pastoralists comprise a large part of the affected communities in these regions, as well as forming a significant portion of vulnerable and marginalised people in Irish Aid Programme countries such as Uganda, Ethiopia, and Tanzania.

Whether in the Karamoja region of Uganda, in Tanzania, in the Turkana region of Kenya, in South Sudan, in the Somali region of Ethiopia, in Somalia, or in the Productive Safety Nets Programme since its expansion, Irish Aid finds itself with responsible for more and more projects and programmes in pastoralist areas.

Ireland can be rightfully proud of its role in supporting the development of Livestock Emergency Guidelines and Standards [LEGS] which provides tailored advice for the design, planning, implementation and assessment of projects and programmes in slow-onset emergency settings, especially in areas where communities rely on livestock-based livelihoods. However, despite this foresight, Irish Aid has failed thus far to make sufficient use of this remarkable tool it helped to create.

Given the sensitive political, social and cultural context, extra care and oversight should be taken with Pastoralist-related projects and programmes. However, Irish

Aid may not be in a position to adequately provide this, as it suffers from a striking lack of capacity, in terms of knowledge and expertise, on pastoralist issues. While there may be individuals within the organisation with some personal expertise, such as those who have worked on Tanzania and Uganda Programmes, the organisation as a whole does not have a single position within Irish Aid, either at Headquarters, or Country level, dedicated to pastoralist or related governance issues.

Recommendations – Ways of Working

- Develop a strategy paper to examine how Irish Aid can best address Pastoralist issues in its Programming
- Emergency and Recovery section personnel, and relevant figures in country teams should be trained on LEGS
- LEGS should be borne in mind on all humanitarian projects taking place in drought-affected pastoralist settings.
- Increase internal capacity in terms of knowledge and expertise within Irish Aid on Pastoralist issues.
- Create a position for an advisor on Pastoralist issues that could lead training and offer advice to emergency section, relevant country programmes, and support Governance section and DFA Africa section.
- Develop strategic relationships with International and National organisations with specialist expertise on Pastoralist issues. The Irish Aid programme in Tanzania, previously had such a relationship for a particular programme, but this expertise should be available to HQ as well as to relevant country programmes.
- Irish Aid in implementing or approving projects should not neglect the important role of African domesticates and work animals - 'micro livestock' - such as donkeys, camels and all types of poultry in combating poverty and ensuring sustainable livelihoods.