

IDLO Comments on Irish Aid White Paper

Perspectives on Development Aid, Rule of Law and Human Rights

1. IDLO is an inter-governmental organization with a small, but growing, membership of 27 governments and a history of 30 years of service in the field of rule of law and good governance. IDLO is the only IGO solely devoted to rule of law, which we discharge by empowering people and assisting states to reform laws and institutions to promote peace, security, human rights, justice and sustainable development. We work bottom up and top down – with the legal community, NGOs as well as governments and the UN.
2. IDLO views the rule of law as a means to improve lives in fragile states such as Afghanistan, Myanmar, South Sudan, Somalia, or emerging democracies like Kyrgyzstan and Tunisia, or Middle Income Countries, like Kenya – all of which currently benefit from IDLO programs. Working on the nexus between law and development, we also help countries and vulnerable populations to use the law innovatively to fight HIV or climate change or corruption, with an aim to achieve sustainable development.
3. IDLO welcomes the White Paper's strong emphasis on human rights and its attention to the relationship between human rights, rule of law, good governance and development. IDLO wishes to stress that the rule of law is an essential component of sustainable development. It provides the normative and institutional framework by which to enable the equitable realization of basic rights and fair access to benefits accruing from the resources available to the country and its society. It also helps to ensure stability, clarity, precision, predictability and transparency in public and private law processes including in contractual, commercial and foreign direct investment sectors. These processes, if they operate with consistency, fairness and on a non-discriminatory basis, help to spur growth, create wealth and reduce rent-seeking and corruption.
4. As the White Paper notes, without human rights, development is neither effective nor sustainable. IDLO commends the Paper for acknowledging both the importance of economic, social and cultural rights for effective development, the inter-relationship between such rights and civil and political rights, and the indivisibility of all human rights. IDLO hopes that the Irish government will be committed not only to mainstreaming and integrating human rights in aid policies, but to a truly human rights based approach to development, where the promotion of human rights becomes the goal of development.
5. Human rights include important participatory rights – the right to vote and express an opinion, to free speech and information, to mobilize and organize. Within a rights framework participation is not just a technical process of project management, but a genuine process of citizen engagement. When people are seen as rights holders and see themselves as rights holders they gain dignity and confidence, and can create the

platform for collective engagement to claim their rights from those who rule in their name. This has been the finding of IDLO in its research on legal empowerment of the poor.

6. The benefits of having solid rule of law frameworks based on human rights approaches become especially clear in development contexts: the United Nations has affirmed on many occasions that strengthening the rule of law and bringing the law closer to the people are effective tools by which to promote economic and social advancement in the global efforts to achieve the Millennium Development Goals (MDGs) and to meet other pressing global challenges. In this sense, IDLO welcomes Irish aid's focus on some of the Millennium Development Goals.
7. IDLO welcomes the White Paper's focus on local ownership. In IDLO's experience, a critical element of rule of law approaches to development has proven to be local ownership and the need to empower traditionally marginalized social groups, including women, in political decision-making as well as in the marketplace. Local ownership is essential to development: development is less likely to take root in a sustainable fashion unless reforms are owned by civil society and supported by NGOs, and in this connection, the rule of law forms a pivotal point of reference for the empowerment and participation of marginalized groups. The Busan process confirmed the importance of ownership, alignment, harmonization, managing for results and mutual accountability for aid effectiveness in development contexts.
8. IDLO would encourage a more structured approach and more prominent attention to the issue of inequality in the White Paper. Inequality makes growth less effective, it excludes some groups from contributing to growth or benefiting from growth altogether. Inequality fuels political and economic instability and social unrest and it encourages inter-generational poverty. This is especially relevant for Irish Aid, since Ireland's aid is heavily focused on Sub-Saharan Africa. In terms of income inequality, Sub-Saharan Africa is one of the most unequal regions in the world. The poorest 20% of the population earn only 5.3% of total income of Sub-Saharan Africa. In Kenya, a Middle Income Country, the country's top 10% of households receive 42% of total income while the bottom 10% receives less than 1%, and real GDP has declined between 1980 and 2003 at a rate of 0.2% per year. The inequality that we see in middle income countries like Kenya is the result of with the same economic growth model. If inequality of any kind, such as for example that related to race, gender, religion, sexual orientation education, health and access to public services and the labour market, is not addressed alongside economic growth, this can affect a country's overall development.
9. IDLO also believes that an aid policy that is actively geared towards economic growth and investment should at the time also seek to improve the quality of institutions that regulate business and encourage corporate social responsibility and accountability for human rights. The White Paper would greatly benefit from emphasis on these issues. Whether Irish companies operating in Africa or Irish aid supporting the

private sector in developing countries, in both situations there is a credible case to be made for introducing international principles of ethical business.

White Paper strategic focus

1. IDLO welcomes and supports the strategic focus of Irish Aid's White Paper, and the new issues that Irish Aid prioritizes, in particular, its choice to focus on countries that face extreme poverty (Uganda, Tanzania, Ethiopia, Zambia, Malawi, Lesotho, Mozambique, Vietnam and Timor-Leste), and on key regional issues such as Fair Trade in Central America. Too many Aid Agencies spread themselves thin, trying to address all issues while effectively lowering the quality of assistance. Ireland is doing the opposite, and it is to be applauded. IDLO considers Irish Aid's priority countries to be well chosen, and shares Ireland's view on many of the key new and emerging challenges.
2. As the White Paper notes, in Sub-Saharan Africa the number of poor continues to rise and the average income of the poorest is declining. More than one-third of children have not enrolled in primary school. Overall, progress towards achieving the Millennium Development Goals is slowest in Africa. However, as recognized in Irish Aid's 2006 White Paper and the 2012 Consultation Paper, the situation in the Irish Aid Programme Countries is also constantly changing. Africa is experiencing an increased economic momentum, and economic growth rates in many Programme Countries are between 5% and 8% per annum. The telecommunications, banking and retail sectors in these countries are developing, construction is doing well, and inward investment is increasing. IDLO would encourage Irish support to laws and policy reform that can ensure that this economic growth benefits the most poor, and leads to truly sustainable development for its Programme Countries.
3. In addition to the global financial crisis, as the White Paper notes, rising food and energy prices and climate change are having negative effects on development. Low-income countries, and in particular those in situations of fragility (more vulnerable to internal and external shocks), are at risk of falling into an ongoing cycle of poverty. The White Paper also recognizes that "despite some gains, issues of governance and corruption, lack of transparency, weak respect for human rights, persistent gender inequality, contracting civil society space, and weak enforcement of laws which protect the citizen persist in many countries and create obstacles to economic and social advancement."
4. One element which seems to be missing in the White Paper is a mention of the current and anticipated impact of non-communicable diseases in the priority countries. In recent policy, WHO has chosen to focus on the four major risk factors for NCDs: tobacco, unhealthy diet (salt, sugar, trans fats), physical inactivity and the harmful use of alcohol. There is a common misperception that NCDs are largely a concern for middle income and rich countries. However, as WHO notes, NCDs are not only a concern of the more wealthy countries, or the more wealthy in the poorest countries. Also, the UN Political Declaration on NCDs (Sep 2011) notes that 'while communicable diseases, maternal and perinatal conditions and nutritional deficiencies are currently the most common causes of death in Africa...' a double burden of disease is

anticipate, with NCDs projected to become the most common cause of death in Africa by 2030. NCDs also include renal, oral and eye diseases, which share common risk factors with the four 'major' NCDs (cardiovascular diseases, cancer, respiratory diseases, and diabetes).

5. IDLO welcomes the White Paper's focus on food and agricultural security and the White Paper's view that the challenges presented by poverty and the responses to those challenges as complex and interrelated.
6. On climate change, IDLO welcomes the White Paper's commitment to supporting international agreements, such as the Rio Conventions on Biological Diversity, Desertification and Climate Change and Ireland's support for countries that will bear the brunt of the negative effects of climate change. The White Paper recognizes that although the causes of climate change largely originate in the developed world, those living in developing countries will be most severely affected. Climate change, especially, poses serious threats to development. The increased severity and frequency of droughts, floods and cyclones risk reversing efforts to improve food security, reduce disease and safeguard livelihoods. The paper also notes that developing countries lack the financial resources, skills, technology and expertise to adapt to a rapidly changing climate. Those countries that will be most affected by climate change are the same countries that are least able to manage that change.
7. As recognized in the Paper, poverty and vulnerability will be further exacerbated by the ongoing impacts of climate change which will in turn worsen the growing problems of global hunger, and food, water and energy insecurity. The Least Developed Countries and the poor are being affected most. Previous gains in development are being reversed – leading to an estimated loss of 5-20% of the world's Gross Product by 2050, with 55-90 million more people likely to live in extreme poverty and 100 million more suffering hunger. Real 'tipping points' are looming in relation to the world's social and environmental systems, and questions arise as to whether the world's governance, economic and financial systems are adequately responding to these changes. As Ireland's 2012 Paper notes, achieving a balance between the economic, social and environmental pillars of development (a 'greening of development') is increasingly important. IDLO would welcome an increased focus of Irish Aid on programs tailored on reducing the risks of climate change, to ensure that Programme Countries and regions of focus can access and absorb the benefits of 'green' development.
8. IDLO welcomes the White Paper focus on fragile states. The World Development Report 2011 highlights that countries with the weakest institutions and governance are most prone to violence and insecurity. UNDP stresses that: "The breakdown of the rule of law is the most significant indicator of an escalating conflict, and thus critical to conflict prevention. In an ongoing conflict, the protection of civilians warrants empowerment of national capacities to counter the 'rule by force' with the rule of law through early recovery".¹ IDLO believes that in post-conflict and transitional situations, the rule of law is an essential component of a sustainable recovery and long-lasting peace.

¹ "Strengthening the Rule of Law in Conflict and Post- Conflict Situations: 2008-2011".

9. Irish Aid's law and development success with IDLO could be further emphasized in the Review: The 2006 Irish Aid White Paper, and the 2012 Consultation Paper, prioritize multilateral efforts and recognize that global challenges need global solutions. The 2012 Consultation Paper notes, at 6.27, that multilateral organizations supported by Irish Aid play a significant role in international development - promoting human rights, leading coordination at country level, and advancing thematic issues such as gender equality, good governance, and sustainable development. It also notes at 6.28 that multilateral organizations play an essential role in leading and coordinating humanitarian responses and reconstruction activities. IDLO is a key international actor addressing the law and governance aspects of these issues, and has partnered successfully with Irish Aid since the White Paper was released in 2006. IDLO hopes that the revised version of the White Paper will acknowledge Irish Aid's successful partnership with IDLO, alongside other larger, multi-lateral organizations.