



## Submission to the Review of the White Paper on Irish Aid

25 April 2012

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Glenboy House, Oldcastle, Co Meath, Ireland

IHRN agrees to the release of all of this submission subject to data protection requirements and does not require any part of this submission to be withheld from Freedom of Information requests

## 1. International Human Rights Network

*International Human Rights Network* welcomes the process and the opportunity to contribute to the review of the White Paper on Irish Aid. IHRN is an independent non-governmental organisation supporting others in applying human rights based approaches in their work. Support is provided to states, inter-governmental organisations such as UN agencies and regional organisations, State agencies, NGOs and other civil society organisations.

A central focus of IHRN's work is to contribute to sustainable change by stimulating and contributing to discussion on the advancement on human rights based approaches to development assistance. To this end IHRN undertakes a range of capacity building activities; needs assessment, programme design, training and evaluation. This work is undertaken both as own-initiative projects and commissioned assignments. For details of IHRN activities and policy positions see [www.ihrnetwork.org](http://www.ihrnetwork.org)

## 2. Progress? how Irish Aid defines and measures success

As Irish public bodies, DFAT and Irish Aid share the same legal framework flowing from the international legal commitments which Ireland has undertaken. This framework is shared with all Irish public ministries or entities. It provides an array of principles, norms and tools with *legal authority* and *legitimacy* – as the basis for their work and relationships.

### Opening Statement of Mr. Sergio Vieira de Mello, High Commissioner for Human Rights. Second Inter-Agency Workshop on Implementing a Human Rights-based Approach in the Context of UN 2003

*"A human rights-based approach – bringing human rights standards and values to the core of everything we do – offers the best prospect of leveraging our influence to empower people to advance their own claims, to prevent discrimination and marginalization, and to bridge the accountability deficits that have chronically crippled development progress. Under a rights-based approach, participation in development is a matter of right rather than charity. Essential to the very definition of human rights is the existence of claims and corresponding obligations at various levels of government and society. In each situation we confront, a rights-based approach requires us to ask: - What is the content of the right?  
- Who are the human rights claim-holders?  
- Who are the corresponding duty-bearers?  
- Are claim-holders and duty-bearers able to claim their rights and fulfill their responsibilities?  
- If not, how can we help them to do so?"*

The principles of law underpinning human rights approaches to development are routinely clustered in different ways for ease of comprehension and application by different groups (e.g according to their mandate, country context, and status as rights holder/duty-bearer on the issue). In much the same way 'human rights' is taught in a myriad of different ways depending on whether the target group is school children, legal professionals, Ministry officials etc.

The former High Commissioner for Human Rights emphasized in the box above, ***context analysis and creativity*** are hallmarks of the myriad approaches to development based on human rights. The key question is 'how can we help' the claims-holders and duty-bearers to claim their rights and fulfill their responsibilities. What does not vary, by definition, is the legal nature of human rights standards, and obligation of Ireland to ensure all its public bodies respect the treaty commitments it has undertaken – including in its development co-operation. This is briefly illustrated by the Committee on Economic Social and Cultural Rights. In 2005, the Committee asked Norway for information on measures taken to ensure compliance with Covenant obligations in its international development cooperation. In 2008, it recommended that Sweden ensure that the principles of equality, non-discrimination, participation and accountability are integrated in the design and implementation of programmes and policies.

Key features of this HRBA legal framework are summarized in Annex I for ease of reference. Annex II outlines the 'value added' of HRBA to Irish Aid.

**This legal framework should be expressly and operationally adopted to underpin all of Ireland's external relations – including but not limited to Irish Aid.** A key expression of this commitment is for Ireland to **influence others** (EU, OSCE, UN agencies etc) who share these legal obligations to do likewise

**The White Paper repeats Ireland's legal and policy commitment to human rights. However, Irish Aid has yet to systematically operationalise this commitment.** Systematic, rigorous testing of development interventions against legally binding human rights criteria are needed to give the White Paper statement practical meaning. Central to aid accountability are processes of evaluation. Human rights based evaluation requires not only that evaluation processes respect and be based on applicable human rights norms but that they seek to empower interlocutors; be participatory; non-discriminatory and accountable etc. This requires that evaluation ToRs are explicit in expecting that these matters be addressed in commissioned evaluation. Where Ireland shares evaluation responsibilities it should ensure that these principles are applied, including in any use of OECD-DAC evaluation criteria of *relevance, effectiveness, efficiency, impact, and sustainability*. Thus enrolment in Lesotho primary schools or access to a basic health centre in Uganda should be clearly stated to be positioned in the context of the primary obligation of Lesotho and Uganda to respect protect and fulfill the right to education and the right to health of those living in their jurisdictions.

Hitherto, Irish Aid has not adopted a common understanding of human rights based approaches as the basis for its work. There is a spectrum of individual approaches, not all of which are well-informed. As a whole, Irish Aid is not able to demonstrate the actual human rights impacts of its work – because the HRBA questions are not being asked. Thus, statements in the White Paper that "Irish Aid programmes and projects should further the realisation of human rights" are **only meaningful if Irish Aid has a deep organisational understanding of what that entails in terms of systems, tools etc to ensure its application.** This should be the basis of planning, priority-setting, definition and measurement of success, partnership selection and processes; quality assurance and accountability mechanisms; entry and exit strategies; internal/external capacity-building, and so forth. Annex III is an example of applying HRBA to Irish Aid's programme evaluations.

Thus, in answer to the Review's question: "Has the Government been successful in implementing the commitments contained in the White Paper on Irish Aid?" - Ireland has long been explicit in recognising that it has both legal and policy commitments to human rights regarding the manner in which Irish Aid is delivered. However, Ireland has yet to put in place the *systems and procedures necessary to ensure* that it implements these commitments in Irish Aid on a daily basis.

### 3. Irish Aid steps to applying HRBA

**In summary, Human Rights Based Irish Aid has systems in place to ensure that every day....**

» *Irish Aid is explicitly based on the applicable international human rights law framework, with clarity regarding rights and duties, rights-holders and duty-bearers;*

» *Irish Aid is grounded in policies and practices that seek to empower all those in the development relationship. This empowerment should be treated not just as an ancillary impact but as the core human right that it is;*

» *Irish Aid is based upon the principle that both Irish taxpayers and aid beneficiaries are facilitated in having "active, free and meaningful" participation in Aid policy and practice;*

» *Irish Aid addresses discrimination (across all grounds prohibited by human rights law) and prioritise groups that are vulnerable to having their human rights violated (including but not necessarily confined to the poor), and;*

» *Irish Aid ensures that aid processes and actors involved are accountable for ensuring positive human rights impact.*

Steps are needed to align Irish Aid's identity as a duty-bearer under international law with its understanding of this key comparative advantage. **To carry out this obligation for Irish Aid requires a process of Organisational Learning adapting management and work practices at all levels to the principles of HRBA, such as:**

- An internal process of discussing identity and strategic positioning with staff and governance bodies (who are we as a duty-bearer, what is our role as Irish Aid,, how do we build internal doctrine & procedures to ensure minimum standards and consistency of identity across all activities, how can we maximise our contribution to human rights change by applying HRBA etc.);
- Strengthening the consistency of understanding and application of principles of human rights based development across its work. Expressly and accurately using human rights language where applicable (in Irish Aid objectives, priorities, strategies etc). The Review questions posed themselves illustrate the need for this, using as it does language of 'basic needs' etc.
- Identifying existing internal capacities and gaps in Irish Aid regarding HRBA in terms of management skills at HQ, Embassies and among partners; selecting, retaining, recruiting and promoting staff by reference to their HRBA capacity; using accountability to HRBA as key criteria for performance assessment at all levels.
- Maintaining organisational systems to ensure compliance with Ireland's, and the host state's, obligations –means that effective HRBA monitoring and evaluation systems should be central. Ensuring that aid programmes are evaluated using HRBA principles and methodologies to identify what the genuine human rights impact of a programme currently is, and the adjustments needed. This means starting from where we are now – and requiring all programmes to be designed from the outset with HRBA baselines, benchmarks, indicators and processes of evaluation to be developed, including amending tender procedures to require HRBA as core skills. As duty-bearer, Irish Aid needs to ensure that those it funds or works through, are also respecting Irish Aid's obligations. This applies to all programmes and activities from multi-annual programming with Irish-based NGOs to funding to multi-lateral IGOs etc.
- Critically examining the assumptions underlying the current focus on programmes in its international work in light of the range of intervention methods open to it and its access to national and international level policy influence. A critical examination of the current portfolio of activities is needed (programmes, consultancies, long-term partnerships and ad hoc activities) in light of that Irish Aid identity per thematic area; comparing thematic priorities with country and ad hoc objectives to maximize the human rights impact; drawing up HRBA criteria and guidelines for taking on new work, and/or phasing out of activities with priorities that emerge from 'bottom-up' HRBA processes.

#### 4. Changing contexts, priorities, ways of working

HRBA enables Irish Aid not just to further strengthen ways of working with "a view to delivering real results' but to understand appropriate ways of working such as with participation that is 'active free and meaningful' understood as the key to sustainability and as a human rights end in itself. In brief, a HRBA process is an end in itself – it is both the means and the goal of genuine development. It is based on deep and on-going analysis of the context. Long-term relationships are established according to whether rights-holders or duty-bearers' capacity is most in need of strengthening to help support change. The choice of partners, and the choice of priorities emerges from this process of deep context analysis. In this way, the Review questions answer themselves as they are automatically addressed through HRBA: 'what a changing context might mean for Irish Aid'; 'how should the Government respond to the key issues of hunger, fragility, climate change..' etc

HRBA are the means by which the Government can "further strengthen its ways of working in delivering an effective aid programme with a view to delivering real results in poverty reduction" – that is poverty reduction defined accurately as a violation of a bundle of human rights , especially powerlessness. As IDEA notes in its submission, what is required is "a clear focus on a rights-based approach throughout the Irish Aid programme and, for the White Paper, a departure from the current language that is dominated by "needs" rather than "rights", re-enforcing the paradigm of a "powerful giver and grateful

receivers." Vulnerability needs to be defined not just in terms of poverty (although that is a key consideration) but vulnerability to specific human rights violations – which varies according to circumstances and over time – and is addressed automatically through the deep context analysis that HRBA brings. As an example, in the case of many Irish Aid priority countries lesbian, gay, bisexual, and transgender (LGBT) people are amongst the most vulnerable to certain types of human rights violations, and Ireland's recent work at international legal and policy levels on these issues is welcome.

## 5. Conclusion

IHRN welcomes the process and the opportunity to contribute to the review of the White Paper on Irish Aid. This submission reflects IHRN's core policy position that overseas aid should be accurately and explicitly based upon the international human rights law framework. The framework is that to which Ireland and its development partner states (including the eight developing countries with which it has a special relationship) have committed themselves to in exercise of their sovereignty.

IHRN echoes submissions of others, such as by IDEA and Dochas that there is a need for a process of Organisational Learning to underpin the major shift needed to HRBA in Irish Aid to give daily effect to Ireland's obligations.

*"It is the way we do business that has to change.*

*This is not a matter simply of the introduction of new human rights projects or ... the infusion of human rights language or the addition of human rights components."<sup>1</sup>*

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<sup>1</sup> As noted by the UN Human Rights Strengthening Programme, Review of 2001.

## ANNEX I

### Core Principles

#### What HRBA means for Irish Aid Development Cooperation

#### 1. Expressly apply human rights framework

Irish Aid development cooperation should:

- Define all goals in terms of applicable international human rights obligations binding on Ireland and its development partner states with legally accurate language that reflects the indivisible, interdependent and interrelated nature of all human rights: civil, cultural, economic, political and social
- Explicitly require implementing partners to take account of human rights obligations at all stages of development cycle (identification of needs through to policy and programme identification as well as implementation, monitoring and evaluation).
- Ensure that whatever sectors, themes are prioritised, they are addressed in terms of their human rights content (for example, health, education, justice) and that the central focus of poverty is framed in human rights terms.
- Ensure that development policy frameworks such as the Millennium Development Goals, The European Consensus on Development etc are read as subject to legal standards and not misinterpreted as alternatives.

#### 2. Empowerment

Irish Aid development cooperation should:

- Promote empowerment - not charity, by ensuring that people have the access, power, capacities (including education and information) needed to engage on development policy and programmes.
- Ensure development partners (rights holders & duty bearers) are informed of Irish Aid's with a common understanding of human rights goals and the duties to respect, protect and fulfil them.
- Build capacity of relevant officials, within Irish Aid, and development partners (States and non state actors) to apply the human rights framework in their work (eg training, specialised advice etc).

#### 3. Participation

Irish Aid development cooperation should:

- Be based upon and promote processes that meet the international law definition of participation "active, free, and meaningful"
- Be explicit that participation in development cooperation is a *right* in itself.

#### 4. Non discrimination & vulnerable groups

Irish Aid development cooperation should:

- Address, as a priority, discrimination and groups vulnerable to human rights violations.
- Ensure that objectives are explicitly linked to relevant international law standards, including treaties most relevant to vulnerability on right of *Children, Women, migrants, persons with disability etc.*
- Disaggregate data by human rights categories (race, religion, ethnicity, language, sex, migration status, age etc).
- Address poverty as a key (but not exclusive) cause and effect of vulnerability.

## 5. Accountability

Irish Aid development cooperation:

- Adopt applicable human rights law standards as the fundamental point of reference for measuring its effectiveness & impact.
- Ensure human rights impact assessment of processes and programmes is based upon accurate identification of the entitlements of rights-holders and the corresponding obligations of duty-holders (to respect, protect, fulfill).
- Ensure that 'success' is understood and measured in human rights terms by Irish Aid personnel, development partners (whether implementing specific programmes or in other contexts such as EU development cooperation).
- Promote the translation of universal human rights norms into benchmarks and indicators for measuring progress and actively contribute to initiatives in this regard.

Annex II: 'ADDED VALUE' OF HRBA

Greater legitimacy	<ul style="list-style-type: none"> <li>✓ Human rights based approaches (HRBA) to development is grounded in, and gains legitimacy from, the inherent human rights recognised in international law. These human rights are minimum agreed standards<sup>2</sup> with the legitimacy of HRBA grounded in their universality and the fact that donor and beneficiary states adhere to human rights treaties as an exercise of state sovereignty.</li> <li>✓ HRBA facilitate common understanding and transparency, as development objectives, indicators &amp; plans are based on agreed universal standards deriving from the international human rights framework.</li> <li>✓ HRBA requires that root causes be addressed which requires the equitable distribution of power and resources based on the recognition that human beings' inherent dignity entitles them to a core set of inalienable rights.</li> <li>✓ HRBA offer an authoritative basis for civil society advocacy on behalf of rights-holders, including international mechanisms (judicial and non-judicial) to highlight State choices that impede the progressive realization of economic and social rights, for example.</li> </ul>
Greater empowerment & participation	<ul style="list-style-type: none"> <li>✓ HRBA shifts the focus from vulnerability as a matter of 'needs' to one of human rights. By requiring meaningful participation of a community (itself a human right) HRBA both requires that people be empowered by development and when properly planned, resourced and executed is it itself a process of empowerment.</li> <li>✓ HRBA empowers communities and individuals to identify relevant duty-holders and assert their rights.</li> </ul>
Greater coherence across sectors	<ul style="list-style-type: none"> <li>✓ The international instruments and authoritative interpretations of treaty bodies and human rights mechanisms define the content of development sectors and themes (for example, health, education, housing, and governance), including the minimum standards binding on all states in the development relationship.</li> <li>✓ HRBA provide a comprehensive and rational framework for all areas of human development, whether health, education, housing, personal security, justice, or governance.</li> <li>✓ HRBA provides a common coherent template for all aspects of state action (both domestic and external): from the processes and content of policies, strategic plans, and fiscal allocation to the training and performance assessment of state employees.</li> </ul>
Greater relevance	<ul style="list-style-type: none"> <li>✓ HRBA recognizes the different levels of human rights obligations &amp; the need to address them systematically &amp; strategically.</li> <li>✓ HRBA offers a framework for more relevant analysis. For example, traditional poverty analyses bases judgments on income and economic indicators alone whereas, a human rights based poverty analysis identifies the specific concerns of the poor themselves and acknowledges poverty as more than material need but as a matter of power.</li> </ul>
Greater impact and sustainability	<ul style="list-style-type: none"> <li>✓ As an example, economic growth alone is not sufficient to reduce poverty – growth needs to be combined reduced inequality. Many donors recognise this by a policy commitment to 'broad based economic growth'. Clearly higher rates of growth can contribute to more rapid poverty reduction. Where the income growth rate rises faster, the incomes of poor people tend to also rise faster. However, there is variation among countries in the relationship between growth and poverty reduction. These variations reflect differences as regards income inequality – which is central to HRBA concerns to address poverty effectively.</li> <li>✓ Local ownership of, and participation in, development process, inherent in HRBA, are fundamental to designing development initiatives that meet local realities and therefore maximise impact and sustainability.</li> <li>✓ HRBA maximizes impact by challenging power structures, emphasizing that development is an inherently political process.</li> </ul>



**Greater accountability**

- ✓ HRBA offer safeguards against unintentional harm by development by ensuring that human rights impact assessment is incorporated into development plans, policies and programmes from the outset.
- ✓ By identifying duty-bearers & their specific duties, development is unequivocally addressed as a matter of obligation – not charity.
- ✓ HRBA provides a basis for assessment of development progress made, beyond mere expenditure, or increased GDP, and provides a universally applicable set of criteria to which the State and its agents must answer.

<p>1. The HRBA provides a clear and accessible framework for assessing the human rights impact of development projects, policies and programmes. It is designed to be used by a wide range of actors, including government, civil society, and the private sector. The HRBA is a living document that will be updated as needed to reflect changes in the human rights landscape.</p>	<p>2. The HRBA provides a clear and accessible framework for assessing the human rights impact of development projects, policies and programmes. It is designed to be used by a wide range of actors, including government, civil society, and the private sector. The HRBA is a living document that will be updated as needed to reflect changes in the human rights landscape.</p>
<p>3. The HRBA provides a clear and accessible framework for assessing the human rights impact of development projects, policies and programmes. It is designed to be used by a wide range of actors, including government, civil society, and the private sector. The HRBA is a living document that will be updated as needed to reflect changes in the human rights landscape.</p>	<p>4. The HRBA provides a clear and accessible framework for assessing the human rights impact of development projects, policies and programmes. It is designed to be used by a wide range of actors, including government, civil society, and the private sector. The HRBA is a living document that will be updated as needed to reflect changes in the human rights landscape.</p>
<p>5. The HRBA provides a clear and accessible framework for assessing the human rights impact of development projects, policies and programmes. It is designed to be used by a wide range of actors, including government, civil society, and the private sector. The HRBA is a living document that will be updated as needed to reflect changes in the human rights landscape.</p>	<p>6. The HRBA provides a clear and accessible framework for assessing the human rights impact of development projects, policies and programmes. It is designed to be used by a wide range of actors, including government, civil society, and the private sector. The HRBA is a living document that will be updated as needed to reflect changes in the human rights landscape.</p>
<p>7. The HRBA provides a clear and accessible framework for assessing the human rights impact of development projects, policies and programmes. It is designed to be used by a wide range of actors, including government, civil society, and the private sector. The HRBA is a living document that will be updated as needed to reflect changes in the human rights landscape.</p>	<p>8. The HRBA provides a clear and accessible framework for assessing the human rights impact of development projects, policies and programmes. It is designed to be used by a wide range of actors, including government, civil society, and the private sector. The HRBA is a living document that will be updated as needed to reflect changes in the human rights landscape.</p>
<p>9. The HRBA provides a clear and accessible framework for assessing the human rights impact of development projects, policies and programmes. It is designed to be used by a wide range of actors, including government, civil society, and the private sector. The HRBA is a living document that will be updated as needed to reflect changes in the human rights landscape.</p>	<p>10. The HRBA provides a clear and accessible framework for assessing the human rights impact of development projects, policies and programmes. It is designed to be used by a wide range of actors, including government, civil society, and the private sector. The HRBA is a living document that will be updated as needed to reflect changes in the human rights landscape.</p>

## Annex III - FIVE CORE PRINCIPLES OF HUMAN RIGHTS BASED EVALUATION

Core Principles	Application in Practice
1. Expressly apply human rights framework	<ul style="list-style-type: none"> <li>✓ Define evaluation goals in terms of the relevant international human rights commitments – as legally binding norms. This includes determining whether the sector or institution concerned:               <ul style="list-style-type: none"> <li>▪ Explicitly takes human rights obligations into account at every stage (from the identification of needs through to policy and programme identification as well as implementation, monitoring and evaluation).</li> <li>▪ Addresses the full spectrum of human rights (civil, cultural, economic, political and social) and acknowledges their legal nature as <i>indivisible, interdependent &amp; interrelated</i>.</li> <li>▪ Builds the capacity of legislators, civil servants and other duty-bearers to apply the human rights framework in their work (e.g. through appropriate recruitment, promotion, training, specialised support).</li> </ul> </li> <li>✓ Ensure that evaluation both promotes, and seeks to measure, empowerment - by promoting a common understanding of the human rights framework applicable to the sector/substantive area and the duties to respect, protect and fulfill rights.</li> <li>✓ Ensure that the evaluation seeks to measure the extent to which duty-bearers educate and raise awareness of all sector actors (duty bearers and rights holders) according to their specific roles &amp; capacities (whether political, management to operational level).</li> <li>✓ Ensure that the evaluation itself contributes to empowerment by ensuring participation by rights holders and duty bearers, by informing and by raising expectations for the future.</li> </ul>
3. Participation	<ul style="list-style-type: none"> <li>✓ Ensure that evaluation measures participation in development against the legal test of the human right to participation - “active, free, and meaningful” including, whether development processes and institutions are accessible, to what extent information is transparent and timely etc.</li> </ul>
4. Non-discrimination & vulnerable groups	<ul style="list-style-type: none"> <li>✓ Ensure that evaluation measures:               <ul style="list-style-type: none"> <li>▪ the impact of development on discrimination &amp; vulnerable groups– commonly minorities, women, children, but noting that vulnerability is a question to be answered according to context &amp; varies overtime.</li> <li>▪ Whether data is disaggregated, by race, religion, ethnicity, language, sex, migrants, age and any other category of human rights concern relevant to each sector (eg in Justice sector context = status of remand/convicted, juvenile/adult etc).</li> <li>▪ gender-proofing as part of the wider human rights-proofing of programming. Assessing the implications for women and men of planned actions, including policies, legislation and programmes.</li> </ul> </li> </ul>
5. Accountability	<ul style="list-style-type: none"> <li>✓ Ensure that evaluation measure the impact of policies, budgets, and programmes accurately in human rights terms, by clearly.               <ul style="list-style-type: none"> <li>▪ Identifying rights-holders (and their rights) and corresponding duty-bearers (and their obligations) and positive obligations (to respect, protect, and fulfill) and negative obligations (to abstain from violations) of the full range of relevant actors (including local authorities and relevant private companies).</li> <li>▪ Translating universal/regional human rights law standards into benchmarks &amp; indicators to measure accountability and progress towards such accountability, including effective laws, policies, institutions, administrative procedures, and mechanisms of redress.</li> </ul> </li> <li>✓ Ensure that evaluation processes and results are also governed by the principle of accountability, including objectivity, due process, adherence to the principle of ‘do no harm’ etc.</li> </ul>