

A submission to the Consultation by the Government of Ireland on a National Action Plan for Business and Human Rights

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**Contributed by Dóchas,
The Association of Irish Non-Governmental Development Organisations**

*Working for a world where poverty and inequality are unacceptable, And where every
person has the right to live free from fear, Free from want, and able to fulfil his or her
potential*

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Introduction

“Business can play an important role in contributing to development and the delivery of global public goods – if it respects human rights. This also means an important role for government in seeing to it that the right incentives and disincentives to respect human rights are in place to steer business practice, including through shaping public-private partnerships that are rights-respecting, rights-promoting and place clear emphasis on accountability “

Mary Robinson, Former President of Ireland, UN Forum on Business and Human Rights, Geneva, 5 December 2013

The following is the submission by Dóchas, the Association of Irish Non-Governmental Development Organisations, to the 2015 Government of Ireland consultation on a National Action Plan for Business and Human Rights.

The members of Dóchas are working together to bring about a world where poverty and inequality are unacceptable, and where every person has the right to live free from fear, from want and able to fulfil their potential. Dóchas provides a forum for consultation and co-operation, helping members speak with a single voice on development issues.

Dóchas welcomes the current commitment by the Irish government to developing a National Action Plan to implement the UN Guiding Principles on Business (UNGPs) and Human Rights. Dóchas members and other elements of Irish civil society, including human rights actors, are acknowledged by the Irish Government and, in particular, by the Department of Foreign Affairs and Trade, as key stakeholders in Ireland’s exercise of foreign policy and external relations. We welcome the opportunity for debate and discussion on the means of implementation for Ireland’s National Action Plan for Business and Human rights.

In January of this year the President of Ireland Michael D. Higgins at a Reception for the Irish Heads of Mission referred to Ireland’s strong reputation as an advocate of human rights quoting amongst others Ireland’s role in the struggle against apartheid. He stated that this reputation “*is a moral heritage we must cherish; one that is valuable both in itself, and as an asset in our relationships with other nations*” and called on Ireland’s diplomats to continue to uphold this reputation.

The development and implementation of the National Action Plan for Business and Human rights is a key opportunity for Ireland to strengthen its reputation as a leader on human rights. This year at a Global level Ireland’s appointment, together with Kenya as one of two co-facilitators of the UN negotiations on the post-2015 Sustainable Development Goals is both an honour and a critical opportunity for Ireland to contribute to advancing a strong global agenda that will seek to eradicate extreme poverty and food insecurity in the next generation.

2015 can be a turning point in human development and at National level Ireland can complement this role by creating a high value environment for responsible and leading edge

businesses. Enshrining human rights principles in corporate practise is a challenge, but also an opportunity for Irish businesses to enhance their reputation. This process should be viewed as a valuable opportunity to identify any gaps in the legal and regulatory framework, and to put in place initiatives to strengthen the overall government approach and to reflect on how Ireland can take up the president's challenge and become a world leader on human rights not only in the diplomatic realm, but also in the way we do business.

Recommendations:

This submission addresses aspects of all three pillars of the UNGP. Dóchas wishes to make the following recommendations:

(1) Ireland's National Action Plan should be based on a comprehensive analysis of the domestic legal environment;

In its 2013 report to the Human Rights Commission, the UNWG suggested that such an examination should include "mapping and analysing current laws, regulations, policies and practices in the field of business and human rights; reviewing the current situation of business and human rights, focusing on all three pillars of the Guiding Principles ... and identifying gaps in protection and in access to remedy"(UNWG 2013a, 21).

Ireland should take the opportunity to learn from the experiences of other European Countries such as the UK, the Netherlands and Denmark, who have already developed and are in the process of implementing their National Action Plans for Business and Human Rights. One of most common learning from these countries is the need for comprehensive base line data. The exercise serves two important purposes: it strengthens the effectiveness of NAPs by both providing information on commitment-compliance gaps and secondly assists in effectively raising awareness of business and human rights issues across government agencies.

Such a review would also ensure that existing legislation enables the state to take legal recourse against companies that do not comply with the UNGP. If areas of contradiction are identified the NAP should make explicit the obligation of businesses in Ireland to respect and abide by international law as well as the principles laid down in international guidelines (OECD, UN and EU).

Irish companies should as a statutory reporting requirement be obliged to report annually on their implementation of the UN Guiding Principles on Business and Human Rights.

(2) Strengthened Policy Coherence;

"States should ensure that governmental departments, agencies and other state based institutions that shape business practices are aware of and observe the State's human rights obligations when fulfilling their respective mandates, including by providing them with relevant information, training and support." (Full text of Guiding Principle 8)

As with other EU and OECD countries, over the past decade, Ireland has recognised the necessity of ensuring a coherent government approach to achieving its external action. Policy Coherence for Development (PCD) is a legal requirement under the Lisbon Treaty. Similar to what is reflected in the Guiding Principle referred to above, policy coherence across government requires the Department of Foreign Affairs and Trade to harness the relevant strengths of all government departments in support of our international agenda, and at the very least ensure that the policies of one government department do not undermine our foreign policy objectives.

Drawing on the UK experience it has been noted that in the preliminary reactions to the NAP implementation process in the UK there was a lack of commitment by those business-related departments that played a limited role during the drafting phase. Ireland needs to learn from this and ensure that the department of the Taoiseach ensures all relevant line departments play an active role in the drafting of the NAP.

Whilst the development of the plan has been assigned to the Department of Foreign Affairs and Trade, **Dóchas recommends that ultimate oversight and responsibility for the effectiveness of the National Action Plan rest with the Department of the Taoiseach.** For the successful implementation of the plan the Government of Ireland needs to break down the silos between departments with human rights accountability to ensure cross-government involvement. In particular, the Department of Jobs, Enterprise and Innovation will have a pivotal role.

(3) Mechanism for effective multi-stakeholder participation;

Dóchas would strongly recommend that the Government of Ireland should establish a multi stakeholder working group including representatives from business, civil society and government. The terms of reference for the working group should include: the regular monitoring of compliance by business, making recommendations to the government on target and standard setting, creating an early warning mechanism and providing input to ensure that the NAP is periodically reviewed and updated.

Dóchas would also recommend that the government of Ireland follow a Rights Based Approach (RBA) in the development of the NAP and directly engage with the rights holders especially those exposed to conditions of vulnerability. We would also recommend that the voices of rights holders are represented by development and Human Rights NGO's in every step of the development and implementation of this Action Plan.

Ireland's policy for International development 'One World- One Future' states that Ireland will strive to ensure that economic development, including engagement by Irish companies, is compatible with our commitment to human rights. Dóchas recommends that Department of Foreign Affairs and Trade should to create multi stakeholder dialogue and initiatives on business and human rights in countries where Ireland has a long history of development cooperation. This should include Irish business operating or interesting in operating in those countries.

(4) Implementation and monitoring of framework;

As with all National Plans it is important that they are understood as a continuous processes based on recurrent monitoring, as opposed to once off events. The National Action Plan for Business and Human Rights should set out specific actions and targets to identify the department in government responsible for implementation of those actions, the timeframe for delivery, and the process of evaluation and review and how business and civil society will be involved.

It is important to note that all targets should be unambiguous with precise indicators and realistic deadlines. The Irish governments should also periodically report progress in implementation.

We also recommend a real role for civil society in the implementation, monitoring and revision of the NAP. As stated above, Dóchas welcomes the inclusion of civil society during the process of creating Ireland's NAP. The Irish Government should continue this engagement to ensure that civil society organisations – both Irish and global – are included meaningfully in the implementation, monitoring and revision of the NAP.

(4) Promotion of the framework;

It is often assumed that private companies would oppose the development of binding legal obligations on businesses to respect human rights. However, Dóchas believes that companies that are genuinely committed to respecting rights should have nothing to fear from such a development. In fact, a clear legal requirement, and an effective state- led support infrastructure might provide significant advantages Irish companies and businesses that are human rights advocates.

Dóchas recommends the continuing promotion of the UNGP by both Government Departments and agencies such as Enterprise Ireland. This should include on-going training for all actors involved.

The framework should also highlight the importance of supporting and promoting education on Business and Human Rights as a component of third level business education. This should include the development of partnerships with business schools, universities and MBA programmes to ensure that they are fully aware of the requirements of business in relation to human rights.

Conclusion

In conclusion, the respect and protection of human rights is everyone's concern. The state has primary responsibility but organisations and companies must be held to the same standard.

Ireland's new foreign policy states "the world is no longer foreign", and that "Ireland is connected to the global community in ways that would have seemed fanciful only a generation ago." It states that our interaction with the global community must be guided by principles of justice and human rights. This is an important statement in line with Ireland's foreign policy tradition as well as UN Guiding Principles on Business. The Irish Government needs to ensure that the infrastructure is in place to bring these statements to life, and that the priorities of all government departments are in line with these principles.