

Trócaire

Trócaire Individual Submission to Irelands Universal Periodic Review 2016

About Trócaire:

Trócaire is the overseas development agency of the Catholic Church in Ireland.

Trócaire works with communities in the developing world to deliver long-term positive change to people's lives.

Established in 1973, today Trócaire works in countries across Africa, Asia, Latin America and the Middle East on issues including livelihoods, human rights, gender equality, HIV, climate change and emergency relief.

In Ireland, we raise awareness about the causes of poverty through our outreach programmes in the education sector, through parish networks, and through our public campaigns and advocacy work.

Trócaire was set up in 1973 by the Bishops of Ireland to express the concern of the Irish Catholic Church for the suffering of the world's poorest people.

At that time, the Bishops issued a Pastoral Letter on development, informed by the core principles of Catholic Social Teaching.

See <http://www.trocaire.org/whatwedo/who-we-are> for more information.

Introduction:

As a means of encouraging constructive dialogue on private sector-related issues in the UN Human Rights Council Universal Periodic Review process, Trocaire's submission briefly addresses aspects of the Irish Government's record of protecting against human rights abuses by or involving business.

Developments since the previous review in background of the State under review:

Ireland was reviewed under the Universal Periodic Review in October 2011, a few months after the June 2011 endorsement by the UN Human Rights Council of the UN Guiding Principles (UNGPs) on business and human rights. The UNGP framework emphasises a State's duty to protect human rights, a corporate responsibility to respect human rights and the need to provide remedies where violations by business entities occur.

In the interim many Irish government strategies have emphasised the promotion of Ireland's economic and trade interests overseas to contribute towards Ireland's economic recovery following the financial crisis. The functions of the Departments of Foreign Affairs and Trade were merged, and the role of the Irish Embassy network heavily emphasized in a particular increase in efforts by government and semi-state bodies to increase Irish private sector activity (trade and direct investment by Irish owned companies) in "high growth" developing markets across the Middle East, Asia and also Africa. With respect to the latter, this has been reflected in the Africa Strategy, the Africa Ireland Economic Forum, and the strengthening of the mandate of Irish embassies across the world, and in particular in Africa, to promote Irish trade and investment.

Greater prominence to trade and inclusive economic growth is also evident in Ireland's 2013 policy for international development *One World, One Future*, which also contains an important commitment to "strive to ensure that economic development, including engagement by Irish companies, is compatible with our commitment to human rights." The January 2015 statement of Irish foreign policy, *The Global Island* expands on these themes in the "Our Prosperity" section which focuses on economic growth, investment, trade and exports, particularly agrifood exports and also notes the importance of "capturing opportunities in dynamic, rapidly growing economies in Asia, Latin America and Africa." Notably, this section does not refer to the strong focus on overcoming poverty and inequality and advancing human rights evidenced elsewhere in the policy, particularly in the "Our Values" section.

Robust measures to address policy coherence and implement the UNGPs on Business and Human Rights become even more critically important in the context of this renewed focus on Irish private investment.

The Irish Department of Foreign Affairs and Trade is currently developing a National Action Plan on Business and Human Rights, and has consulted with interested individuals and groups, both Irish and international in developing this plan. The consultation process builds on the DFAT NGO Forum on Business and Human Rights which took place in Dublin in November 2014. Trócaire welcomes the current commitment by the Irish government to developing a National Action Plan to implement the UN Guiding Principles on Business and Human Rights.

The attached paper outlines our full set of recommendations to the Irish Government on priorities to be considered in a comprehensive National Action Plan on Business and Human Rights, with a summary of key recommendations below.

<http://www.trocaire.org/sites/trocaire/files/resources/policy/trocaire-position-paper-irish-national-action-plan-ungps-bhr.pdf>

Key Recommendations:

Conclude and implement an effective and comprehensive Irish National Action Plan for implementing the UN Guiding Principles on Business and Human Rights.

- Introduce mandatory Human Rights due diligence for state-owned companies. This involves requiring all state owned companies and agencies, in particular those with a significant overseas presence (e.g. Enterprise Ireland, BordBia, ESB International) to demonstrate the highest possible attention to human rights (giving particular consideration to gender inequalities) through their policy statements, and establishing human rights due diligence and remedial processes, thus providing a leading example to other Irish businesses.¹
- Ireland should review how best to ensure remedy for potential victims overseas of human rights abuses by Irish companies, ensuring that victims of human rights violations are not faced with undue barriers to justice, including legal, procedural or financial barriers. The French Bill on the duty of care in relation to subsidiaries and sub-contractors of French companies provides a good example of Human Rights Due Diligence regulation currently under consideration by the French Senate, whereby companies could be held liable in French courts if they have failed to exercise adequate due diligence in their supply chains.²

¹ Due diligence is understood as a business process through which enterprises actively identify, prevent, mitigate and account for how they address and manage their potential and actual adverse human rights impacts on an ongoing basis. The process should include assessing actual and potential impacts throughout their business operations, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. Due diligence implies more than just an assessment of risks for the company; the purpose is to understand and address risks and abuses that the company's activities pose to rights holders, including in its supply chain and through its other business relationships. See "How to use the UN Guiding Principles on Business and Human Rights in company research and advocacy: A guide for civil society organisations" and also CIDSE Paper "Human Rights Due Diligence: Policy Measures for Effective Implementation." September 2013

² In March 2015 the French National Assembly adopted, on first reading, a bill imposing environmental and human rights due diligence obligations on large French companies with regard to the activities of their subsidiaries and subcontractors. Once the law is in effect, judges will be able to require these companies to publish their due diligence plans and to report on how they have implemented them, and impose fines for non-compliance. Victims of serious human rights violations in the value chain will also be able to bring civil claims against French parent companies in French courts, and obtain a remedy if they can prove that the injury they suffered is linked to the company's lack of vigilance. See <http://business-humanrights.org/en/parent-company-liability-could-discussions-around-a-treaty-prompt-states-to-do-what-they-have-so-far-resisted> See also <http://www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/Session1/A.HRC.WG.16.1.NGO.9.pdf>