



Liberia Solidarity Group

Submission to the Department of Foreign Affairs and Trade on the Working Outline of Ireland's National Plan on Business and Human Rights

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About the Liberia Solidarity Group

The Liberia Solidarity Group (LSG) is dedicated to the creation of a mutual learning partnership between Ireland and Liberia which promotes justice, peace, equality and human rights through collective action and sustainable development. We are concerned to support those working in Liberia to achieve these goals through the development and implementation of education, enterprise and community development activities, including actions that promote or enhance the status of women.

Key issues for LSG

LSG is particularly concerned that a robust business and human rights framework ensures the protection of human rights and promotion of good governance in fragile states like Liberia, with a particular focus on gender, human rights defenders and access to remedy for communities facing human rights abuse. There are a number of issues of concern to LSG:

a. Extending extraterritorial application of access to remedy

The business & human rights framework ultimately rests on the ability of rights holders to seek access to remedy when their rights are infringed upon. LSG is concerned that the current working outline does not adequately protect rights holders in this respect, particularly in fragile state situations where good governance and access to justice is problematic. While we welcome the commitment of the working outline to review how best to ensure remedy for potential victims overseas of human rights abuses by Irish companies. However we feel that the only way to ensure this is to provide recourse to the Irish judicial system by rights holders outside of the State. There is now a legal precedence for such an approach within the European Union, with the case of Shell's Nigerian subsidiary being held accountable under Dutch law.¹ We feel that access to remedy within the working outline could be considerably strengthened by considering such an approach. Similarly, steps could be taken to explore

¹ <http://business-humanrights.org/en/shell-lawsuit-re-oil-pollution-in-nigeria>.

how the role of the National Contact Point for the OECD multinational guidelines could be extended to support extraterritorial access to remedy.

b. Conflict affected areas

LSG welcomes the working outline's addressing of the specific business and human rights concerns in conflict areas, and the emphasis on coherence with Ireland's National Action Plan on Women, Peace and Security. In order to support the coherent implementation of both National Action Plans, LSG would welcome further opportunities for engagement and dialogue with a specific focus on the women and gender aspects of both plans.

Given the serious risk of business active or passive complicity in human rights abuse in conflict affected zones, we feel the working draft could be strengthened in this area. In particular, we believe the plan should address the State's capacity to actively dissuade investment by Irish companies in conflict zones. Furthermore, reference could be made to the Foreign Earning Deduction, where human rights due diligence would provide a useful safeguard in conflict zones.

c. Policy coherence for development

LSG believes that it is essential that the national plan is framed within a "whole of government" approach so there is policy coherence between foreign policy, trade and investment policies (particularly the State's Africa Strategy), human rights and international development goals. The national plan should become a standing agenda item for the Interdepartmental Committee on Development, for example.

d. Business and human rights promotion through Irish Aid

LSG welcomes the working outline's specific commitment to supporting an open civil society and human rights defenders. This area could be further strengthened by the inclusion of an action point requiring Irish Aid to ensure its staff, both in Ireland and in countries where Irish Aid programmes are delivered, identify how to integrate and promote the national plan in their work. In countries with fragile governance structures Irish Aid can play a useful role in promoting the business and human rights principles, and in particular supporting human rights defenders in those countries to understand and use the principles.

e. Mandatory compliance of the public sector

LSG believe that there is a need for mandatory human rights due diligence and compliance with the plan by State departments, bodies and agencies and local authorities. All public bodies should have a positive duty to promote human rights through their procurement processes and all engagements with

the private sector. This should be augmented by a clear “carrot /stick approach” with private sector interests, where business and human rights requirements are ultimately mainstreamed into government procurement, trade mission participation and stock exchange listing, for example.

f. Human rights in business & corporate social responsibility

The plan acknowledges that business and human rights goes beyond simply corporate social responsibility (CSR). LSG believes that the plan should make it clear that companies cannot chose a “softer” CSR approach instead of serious engagement with human rights. This can be achieved by adopting mandatory compliance by public sector bodies and the introduction of clear business and human rights requirements as outlined above.

g. Mainstreaming human rights in business education

There is a need for human rights education to be mainstreamed across all business degrees and diplomas including for engineers and construction workers. The State should work with business schools and other education and training providers to support initiatives in this area. Particular attention should be given to the human rights challenges for business operating in the Global South.