TRÓCAIRE

DEVELOPMENT REVIEW 2009

Trócaire's vision

Trócaire envisages a just and peaceful world which cherishes people's dignity and respects their rights; where their basic needs are met and they can share resources equitably; where people have control over their own lives and those in power act for the common good.

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DEVELOPMENT REVIEW 2009

BUSINESS AND DEVELOPMENT

DEVELOPMENT STUDIES ASSOCIATION PANEL PAPERS

RESEARCH PAPER

BOOK AND JOURNAL REVIEWS

EDITORIAL STATEMENT

Trócaire, the Irish Catholic Agency for World Development produces the *Trócaire Development Review* as part of its programme of policy research and development education. This programme aims to raise awareness in Ireland and elsewhere of the scale, dimensions and causes of world poverty and to advocate for policies to overcome it.

Trócaire, in producing the *Trócaire Development Review*, draws together policy analysis and research findings with particular relevance to Ireland's evolving role in international development. *Review* articles are on economic, social and political themes related to poverty and injustice in the developing world. A particular focus is the impact on developing countries of aid, trade, financial and other policies adopted by industrialised countries. Ireland's policies in the context of European Union policies are of special interest.

Articles that fall within the remit outlined above are welcome. While analytical, they should not be over-technical in presentation. In general, individual country case studies should only be used to illustrate a general argument. Research findings on pertinent issues would be particularly welcome. All articles are subject to blind peer-review by the Editorial Committee; articles should not exceed 7,000 words. Short notes and comments are also welcome.

The views expressed are those of the authors, and do not necessarily reflect those of the Editorial Committee nor of Trócaire.

Trócaire Development Review is published annually and back issues over 21 years are available online, fully digitised and searchable. Visit www.trocaire.org/resources/tdr.

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PREFACE

This year has been a challenging one for the development model. The financial crisis, on top of last year's food and fuel crisis, has already started to unravel progress made on the targets set by the Millennium Development Goals (MDGs). As a result of these multiple crises it is estimated that globally over 1 billion people are going hungry for the first time, 89 million people will join the ranks of people living in extreme poverty and as many as 59 million people could become unemployed. Next year we will only be five years away from the deadline we set for ourselves for meeting the MDGs. With this clock ticking we have to look again at the development model we work within, at the actors involved and ask ourselves is this the most effective path forward. Furthermore, how we will hold ourselves to account if we fail to meet these objectives? In this context, it is welcome that this year's *Trócaire Development Review* looks at one specific relationship in the development model, the role of business in development, and throws out the question – "Where next?"

The potential for the private sector to make a positive contribution to achieving the MDGs is significant, as recognised by Goal 8 of the MDGs. It is important to recognise that the private sector is already playing a role in development. A recent issue of *The Economist* points out that some of the new services that mobile phone companies are providing in developing countries, such as access to weather information for farmers and savings schemes for people without bank accounts, could launch a new wave of development. Furthermore, the World Bank recently mentioned that small and medium enterprises will play a central role in relaunching growth in low-income countries. But in order to realise the potential of the private sector's role in development, we have to address the issue of accountability. We have to ask the question to whom are businesses accountable and for what?

As the size of wealth and influence of certain business actors has increased, the balance of power between business and governments has been fluctuating – and with this the direction of accountability. Unless businesses are accountable to the citizens and governments of the countries they work in, there is a risk that, even if they generate financial gain, their activities will undermine the development of those countries and the poor who can ill-afford this. In practice this has proved to be the common outcome, where business activities have negatively impacted on the rights of the poor, on their environment and livelihoods.

Furthermore in such cases those impacted have had few mechanisms to hold these businesses to account. It is in these situations of injustice where tension between the development sector and the private sector is created.

This issue of justice is fundamental to Trócaire's mandate as our work is grounded in Catholic Social Teaching and Gospel values of justice. Pope John Paul II in his 1991 encyclical *Centesimus Annus* laid out a comprehensive view of the Church's teaching on a broad range of political, social and economic questions. The encyclical affirms the rights and dignity of workers, as well as the role of markets and the rights of private property. But the fundamental point is that these rights are set within the state determining a legal framework for economic affairs to be conducted so that the interests of one group do not overtake another. Building on this, Trócaire sees an important role for the private sector in development but only within a system of accountability.

Trócaire has worked on private sector related issues for many years. On the one hand Trócaire has carried out significant work around labour rights, indigenous people's access to land and addressing business violations of issues such as the environment and human rights. Alongside this work, Trócaire also has a long history of supporting business related initiatives of farmers' groups, women's cooperatives and local enterprise generally. Examples of successful initiatives include support to exporting fair trade olive oil from Palestinian farmers, fair trade coffee from farmer cooperatives in Central America and the development of processed cereals and baby foods in Rwanda for local and regional markets. Trócaire believes that regardless of ownership structure and size companies are an important player in the development agenda as they bring together capital, labour and knowledge to address the needs of their societies.

The articles in this year's *Trócaire Development Review* are rich in ideas on how the private sector can play a contributory role in development while being held accountable to the citizens and countries in which they work. I hope that these articles will provide a much needed discussion here in Ireland on where next for the relationship between the private sector and development – and in particular how, through working in a complementary approach, these two sectors bring us closer to achieving the MDGs by 2015.

Director, Trócaire
November 2009

EDITOR'S INTRODUCTION

What role is there for business in development? Over the last years there has been an increasing call to expand the role of the private sector into the mainstream of development aid programmes. Increasingly governments have given the private sector a role in the debate on poverty reduction and see it as a future player in the fight against poverty, alongside government, UN agencies and NGOs. Yet, there is a debate on what the extent of this role should be, especially given the context of the financial crisis where people are revisiting the relationship between the private sector, the government and the economy. The rise of newly industrialising countries and the related increase in exploration for natural resources have also raised significant concerns over the impact of business operations on the rights of communities in the global South.

In parallel to this discussion on the role of the private sector in development, is one on Corporate Social Responsibility (CSR), where companies have developed their own mechanisms to ensure that they operate in a more responsible fashion towards the wider society. This discussion on CSR holds the potential for pro-poor activists and organisations to engage directly and critically with the private sector through the mechanisms they have set up but more importantly through monitoring companies' performance against their stated policies. However there are also questions around the efficacy of CSR as it is a private sector driven framework and operates on a voluntary basis.

In the context of these two discussions and the issues they raise, a question emerges on whether there needs to be a new paradigm on the responsibilities of businesses in development that goes beyond CSR. This year's *Trócaire Development Review* puts out this very question to the development community. The papers included in this year's edition lay out the challenges, but also the strengths and opportunities that exist within the role of the private sector in development. For instance the papers challenge whether voluntary mechanisms are sufficient to ensure that the business sector plays a positive role in development. They also look at issues such as taxation and how this area can provide a mechanism for developing countries to finance their own development.

Furthermore, the papers emphasise that you cannot discuss the role of businesses in development without addressing human rights. Policy coherence is also brought up in a number of the papers, highlighting the need for the objectives of the private sector to be aligned with those of the development sector and not to undermine them. These papers kick off an important discussion on what the potential role of the private sector in development could be, referring to the Irish context regularly.

The first two articles in this year's *Trócaire Development Review* look at which international frameworks can be applied and enforced in the Irish context and beyond for holding business activity accountable to development outcomes. Dr Shane Darcy's article, "Business and Development: A two-way street? Corporations, Human Rights and the Accountability Challenge", argues that if corporations are to have a role in development, with benefits and entitlements, they also must have clear responsibilities and function within a proper regulatory structure. Yet, he points out that currently this is a one way relationship. While corporate actors are seen as important players for development progress, a great number of their activities contribute to human rights violations and to perpetuating conflict for which they are not held accountable. The question is: Where is the common ground? The paper looks at the difference between inducing businesses to hold themselves to account versus enforcement structures that hold corporations to account, arguing that voluntary options are no longer sufficient.

But the issue is more complicated, as Darcy points out. Often even where enforcement structures such as international law exist, they have been developed without corporate actors in mind. So while individuals can be held to account for violating human rights, corporations are often outside of these enforcement structures. As a result, to ensure corporate accountability, one has to go outside of the conventional mechanisms or find ways to redefine existing structures so that corporate actors are incorporated into these enforcement mechanisms.

The next article by Hannah Grene, "Corporate Accountability for Human Rights: Using the OECD Guidelines for Multinational Enterprises as a Tool", tries to address the question posed by Darcy: Is there a viable framework for holding corporate actors to account? In highlighting the OECD guidelines as a workable enforcement mechanism for corporate accountability, Grene argues that the strength of these guidelines is that they provide a mechanism for complaints against corporate actors and potential remedies through their national contact points. Furthermore, with 97 out of 100 of the biggest corporations operating from OECD countries, Grene argues that the potential impact of these guidelines is significant.

To illustrate their potential she provides an example from Australia, where human rights groups and NGOs have been able to access key decision-makers, without legal representation, in order to influence how to rectify a human rights violation. Yet, at the same time, she recognises the limitations of these guidelines, especially as in most countries the national contact points are not independent of government and often have little capacity to deal with the number of complaints made to them. The Irish example in this paper, which looks at the case of the Corrib Gas Pipeline, portrays both the potential of these guidelines but also its limitations.

Mark Cumming's article, "Responsible Investment and its Place in Development: Challenges for the Irish National Pension Fund", looks to a specific opportunity within the Irish context, the National Pension Reserve fund (NPRF), and how this can be used as a financial mechanism for holding corporate actors to account for their activities. Drawing on the work of John Ruggie, the UN Special Representative on Business and Human Rights, this article argues that states, such as Ireland, have a duty to ensure avoidance of complicity with human rights abuses. Yet in its current form, the mandate of the NPRF is financial profit maximisation, thereby limiting its ability to ensure that the companies it invests in are "doing no harm". With growing consumer demand for ethical investment, combined with the increasing buy-in that social and environmental considerations have to be incorporated in long-run profit decisions, Cumming argues that the legislative mandate of the NPRF has to be expanded. If future Irish pensioners are to see sound and sustainable returns from the NPRF, there is a need for ethical guidelines and mechanisms for enforcement to underpin the investment strategy of the NPRF. In reviewing the ethical guidelines of the Norwegian State Pension Fund, this article highlights models that already exist which Ireland can build on.

The final two articles in this section of the *Trócaire Development Review* are interesting to read together and broadly tackle the role of financial flows on development. The McNair et al. article, "Tax Justice: the Impact of Global Tax Policy on Developing Countries and the Role Ireland can play", looks at how balanced tax regimes can play a pivotal role in promoting development, but suggests that currently the structure is not doing so. In particular, developing countries often experience the negative impact of other low-tax jurisdictions, resulting in their having lost up to $160 billion in tax revenue, more than 1.5 times the global aid budget.

Interesting factors contributing to this are the laxer tax rates often enjoyed by multinational corporations (MNCs) that place local enterprises at a disadvantage; double taxation treaties that result in capital flowing from developing to developed countries; the lack of financial transparency; and the use of mis-pricing within MNCs. Central to this debate on tax is where the power lies, which is often with the MNCs versus the nation-states. This paper reviews Ireland's tax regime within this discussion, bringing up key opportunities where its tax policy is at odds with its development policy. But it also provides ways to address this incoherence, such as through automatic exchange of tax information, setting up international accounting standards on country by country reporting, and supporting the capacity development of revenue authorities in Irish Aid programme countries.

Barry and King's article, "The Coherence of Ireland's Foreign Direct Investment Policy with Overseas Development Objectives", looks specifically at whether Ireland's development aid objectives are coherent with both its inward and outward foreign direct investment (FDI) policy, making clear recommendations where progress can be made. According to the paper, in all but one of Irish Aid's programme countries, aid is a lager component of GDP than FDI. Furthermore, there is a negative relationship between FDI and aid, where aid tends to go to the least developed countries which are not attracting FDI. With this in mind, the article turns to areas that may help facilitate greater FDI. One area it touches on briefly is tax sparing agreements, which according to the OECD, if not designed correctly and applied in the right context, may be ineffective in promoting development.

In the area of capacity building, the article highlights the role of the Industrial Development Authority in Ireland, suggesting that Ireland draw on the experience of this agency to help establish investment promotion agencies in its partner countries. A controversial issue the paper looks at is bribery and corruption, an area where the OECD has criticised Ireland for not doing enough to ensure that Irish companies do not engage in such activities in developing countries. The article recommends putting in place reporting mechanisms and whistleblower safeguards to address this. A contentious issue that this paper explores is corporate tax and the impact it may have on developing countries. The paper argues that this impact should be minimal because Ireland's main competitors for FDI are not developing countries but other developed countries.

The next section of the *Trócaire Development Review* includes two papers written specifically for a session on business and development in this year's Development Studies Association (DSA) Conference of Ireland and the UK. Both of these papers look at the theoretical frameworks in which business and development relate, drawing on field research for their analysis. The first paper by Kate Macdonald, "Spheres of Responsibility in a Partially joined-up World: Institutional Action and the Business 'responsibility to respect'", looks at business accountability on human rights across two frameworks, both of which define but also bound the scope of business responsibility on human rights. The analysis in the article highlights how neither of the theoretical frameworks on their own have the ability to ensure that businesses respect human rights, but if combined could provide an operational framework that goes in the right direction.

The first framework is based on businesses' obligation to respect human rights, where a direct relationship exists between principle and agent and responsibility can be attributed to the agent's action and choices. Yet, as the article points out, increasingly businesses function within networks and supply chains where they may not have a direct line of influence on their supplier. In such contexts the role of governance is critical but also often the missing link. Therefore such a framework can only address human rights violations where business actors have had a direct and active role.

The second framework broadens the scope of business responsibility by defining and obliging businesses to support and respect human rights within their spheres of influence, versus just their direct relationships. Macdonald argues that such a framework actually complements the first one, where the first framework provides the ability to hold businesses to account for their direct impact on human rights; the second framework holds businesses to account for institutionally mediated harm across multiple businesses.

The second paper in this section, "Creative Destruction? Energy Poverty and the Double-edged Role of the Private Sector", by Dr Ed Brown and Dr Jonathan Cloke, looks at the promotion of corporate privatisation of services and the impact this has had on the role of local small and medium enterprises (SMEs) in these sectors, using the energy sector in Nicaragua as a case study. The paper argues that while SMEs have an important role for the delivery of energy services to the poor, these power relationships between transnational corporations (TNCs) and national elite groups, have resulted in SMEs being crowded out – often to the detriment of the local community and the poor. The paper highlights that high-income countries already dominate the services market, creating complex relational spaces when talking about privatisation and its impact.

Critical in this are the symmetries of power that determine effective relationships of accountability and to whom. The paper argues that in the energy sector in Nicaragua this is often between the corporate powers and elite groups. SME participants from workshops organised by the authors echoed this point through highlighting their frustration with the monopoly of power generation and distribution in the energy sector, as well as their sense of being locked out of an area where they could make a critical and needed contribution. Currently only slightly more than half of the population in Nicaragua has access to electricity, a statistic that according to the authors has only changed slightly since the 1980s. At the crux, the paper is arguing that yes, there is a role for the private sector, where local SMEs could provide a decentralised and alternative energy programme to the poor.

The final section in this year's *Trócaire Development Review* looks specifically at development issues related to Ireland. These issues do not have to link to the thematic focus of the *Review*. The research paper in this section looks at accountability, an issue that has featured increasingly in the discussion of civil society, NGOs and policymakers working in development. Over the last few months in Ireland there have been discussions on whether our aid is effective, whether our development programmes deliver and whether partnership models are working – all important dimensions of accountability.

This paper, "Organisational Learning and Accountability – Opportunity for an Irish Contribution to Aid Effectiveness", by Barry et al., argues that in order for development organisations to achieve mutual accountability, technical approaches are no longer sufficient. Instead it proposes that these approaches need to be enhanced by looking at the nature of aid relationships and the mechanisms by which these relationships are established. Furthermore it is within the daily actions and interactions of practitioners where we can gain insight into how development works and what changes need to be made to ensure mutual accountability. The paper draws on qualitative research conducted in Irish Aid on its organisational learning to illustrate and draw out what it means by reflective learning.

This year's *Trócaire Development Review* provides the start of an important discussion in Ireland on how and when the private sector can contribute to development objectives. With the murmurs of recovery from the financial crisis, we should not lose the opportunity provided by this crisis to rethink and change the framework in which private sector actions impact on development outcomes. The papers in this edition provide interesting and valuable entry points on what these changes could look like, such as sustainable pension funds, fair taxation and accountable human rights frameworks. It would be a missed opportunity if these ideas were not taken forward by the policymakers who sit in a privileged position to make some of these ideas a reality.

Tara Bedi
Editor

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