TASC

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Deconstructing the Annual Budgetary Process

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Deconstructing the Annual Budgetary Process: a Human Rights Perspective

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Abstract

A state's economic policies and its compliance with its human rights obligations are intertwined. Thus, whether a state is in compliance with or in contravention of its international human rights obligations necessarily involves judgements about resource allocation and prioritisation, that is, the state's Budget. In this paper, the author discusses certain concerns regarding the Irish State's Budget process at the macro level, from the perspective of an economist with extensive experience in budget analysis. If relevant indicators show that governments are paying insufficient attention to human rights concerns in the annual Budget, it would illustrate that they are pursuing inadequate budgetary policies.

> "[A] rights based approach to making the new economy work for all requires us to take a new approach to ensure that there is the full integration of the norms, standards and principles of the international human rights system into social and economic plans, policies and processes."
>
> Mary Robinson, former UN High Commissioner for Human Rights
> *OECD Observer*, Summer 2000

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Preface

TASC is dedicated to promoting equality, including the economic equality that is affected by decisions made in the Budget on taxation, social welfare and the funding of public services. The reform and renewal of Ireland's democratic institutions, including how the national Budget is planned and analysed each year, is essential for our future. TASC has a track record of examining the annual Budget and Finance Acts; recent documents include our analysis of the 2010 Finance Act (*Failed Design? Ireland's Finance Acts and their Role in the Crisis*) and TASC's Budget proposals for 2011 (*Investing in Recovery, Jobs, Equality*).

In recent years, Amnesty International Ireland has been tracking the growing international debate on the relationship between human rights and economics, and the benefits of a human rights approach to budgeting. Irish governments have often emphasised the seriousness with which they take human rights. But their approach has been regularly characterised by an emphasis on the financial cost of delivery. This poses a challenge for human rights advocates and leads us to examine the political and economic assumptions that inform national economic policy and the decisions made by Government in the annual Budget.

Dialogue between TASC, Amnesty International Ireland and the authors has looked at how the State delivers its human rights obligations to the people of Ireland. Human rights law does not prescribe any particular economic model. But we must examine how the State generates, and then allocates, the resources available to it in order to identify how best to achieve the fundamental human rights owed to each of us.

In the context of the inequality evident in the measures taken in a series of austerity budgets, it is timely to examine the bigger picture of what direction we, as a society, are going in. Human rights obligations, like those in health, education, housing, provide a valuable articulation of what a better society would look like.

We welcome these discussion papers as part of the need to foster a conversation between those interested in human rights and those concerned with economics. They are designed to invite suggestions and criticisms from readers, as part of the process of TASC developing its recommendations for reform of this area.

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Introduction

"There are many ways for government funds to be spent. Human rights provide a way to choose among different options. At a minimum, such a framework makes clear that fiscal choices must not violate human rights. It also provides guidance for choosing among options, since human rights standards often direct governments to give priority to certain types of expenditures over others."

Dignity Counts, International Budget Partnership

1. In Ireland, the budgetary process is a key part of the annual allocation of resources by the Government. It is therefore a key tool for Government to ensure that the totality of financial resources available to the state is identified, and the "maximum available resources" are directed towards realising its human rights obligations. This paper focuses on the obligations Ireland took on when it signed and ratified the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.[3]

2. Article 2 (1) of the International Covenant on Economic, Social and Cultural Rights *"obligates each State party to take the necessary steps 'to the maximum of its available resources'. In order for a State party to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations."*[4] In an Irish context, maximum available resources is not an exact figure, but indicates that the state should seek to expend an optimum level of resources on achieving the goals set out in the International Covenants on human rights.

3. The realisation of all human rights – civil, political, economic, social and cultural – requires the state to spend money. In respect of economic, social and cultural rights, the state is obliged to meet its "minimum core" obligations, and in tandem, progressively realise each of the rights over time using the "maximum available resources". The determination of this is political and is thus contested and addressed according to the political perspectives of differing governments. While "resources" are not limited to financial resources, this paper concerns the allocation of public expenditure towards

[3] Ireland has, of course, signed other human rights treaties, including the European Convention on Human Rights, which are also relevant.

[4] The nature of States Parties' obligations (Art. 2, par.1): 14/12/1990. UN Committee on Economic, Social and Cultural Rights, General Comment 3.
<http://www.unhchr.ch/tbs/doc.nsf/0/94bdbaf59b43a424c12563ed0052b664?Opendocument>

human rights commitments. Since resources are always limited, it is vital, and a requirement of international human rights law, that those limited resources are used efficiently to maximum effect. In addition, participation, transparency and accountability are key principles that should underpin how decisions relating to the realisation of human rights should be taken. The duty not to discriminate is an immediate obligation, and thus budget allocations should ensure that all groups are equal beneficiaries, and that vulnerable or discriminated against groups are prioritised.[5]

4. Each year the Government sets out a Budget, which is a statement of its intentions on how it will raise money, largely, though not solely, through taxation. It also sets out investment priorities. From an international human rights standards perspective, a government is obliged to ensure that sufficient revenue is generated to respect and fulfil human rights. However, this paper looks at the Budget as a resource allocation mechanism. In the annual Budget, the Government sets out how it will spend the money it has raised – both current and capital expenditure – and also sets out the main changes in spending programmes, such as whether a Department will get a rise or a reduction in its budget. The Government's aim is that each Budget establishes policy over three years,[6] but the real focus is on the year immediately following. The Budget is enacted by legislation passed by the Oireachtas and approved by the President. Another aspect of the Budget is that it provides a technical forecast of the projected levels of revenues and of expenditures.

5. The Department of Finance is at the centre of this process. It has a very complex job, in attempting to balance the Budget, allocate resources effectively, maintain and increase revenue, encourage economic activities and ensure that welfare and a vast array of expenditures are efficiently deployed. The job of Finance officials is to ensure that the balance between the encouragement of enterprise, social inclusion and many other competing objectives is achieved in line with the Programme for Government. The Budget includes the following areas of public expenditure:

[5] In a 2008 article, Fredman concludes that the *Dignity Counts* report on human rights based budgeting conducts its assessment against three core elements: the sufficiency of government spending; the equity of spending patterns; and the efficiency of spending (Sandra Fredman, *Human Rights Transformed - positive rights and positive duties* (first edition Oxford University Press, Oxford 2008) page 82). Amnesty International uses these headings, but adds a fourth: accountability of government spending. This checklist is also guided by the framework proposed by Maria Socorro I. Diokno in her 1999 report, *A Rights-Based Approach towards Budget Analysis*.

[6] From Budget 2011, it was a four year plan, for the first time.

a. Capital Expenditure (funding for capital items or fixed assets such as buildings or roads);

b. Current Expenditure (funding for state operations, such as salaries or administrative overheads);

c. Transfer Payments (funding directly transferred to non-state organisations or individuals, and are not payments for productive work, such as pensions).

6. There are three main types of government spending: ‘public consumption’ is largely on education and health; most of the welfare budget is on ‘transfers’; and another form of spending is assistance to businesses. Welfare, and to a certain extent education and health spending, involve the redistribution of society’s resources. Assistance to businesses includes direct grants, tax expenditure (‘tax breaks’) and indirect assistance through many dedicated state funded agencies (for example, IDA Ireland, Forfás).

7. Most governments in developed market economies are involved in promoting business through direct and indirect subsidies. The total spend under these headings in Ireland is several hundreds of millions per year. Direct grants help attract foreign companies to invest here and/or encourage and assist indigenous firms. There are no state subsidies to the remaining commercial state-owned companies such as the ESB. However, there are subsidies to public transport (Irish Rail and Dublin Bus) under specified EU state aid rules.

8. Overall spending in each area is monitored, with oversight from the relevant Department and from the Department of Finance. However, there is much less oversight of whether or not allocations ‘leak’ within individual Departments’ spending; that is, whether allocations move between the sub-categories in which they were originally to be paid. Later, the Comptroller and Auditor General scrutinises spending to ensure that it was undertaken correctly. Value for money is now also a major objective (see below).

9. While the Department of Finance is the overseeing and allocating authority which must balance the State’s books, it also has a key role in ensuring that money is not wasted and is properly spent.

10. In assessing the intended impact of budgets in any country, the first essential requirement is a clear understanding of how a budget is composed – its structure, the

political pressures under which it is constructed, the political power of the Government and its ambition, the power of lobby groups, the state of the economy, etc.

The Economic Environment

11. The economic environment is vital in framing the Budget. If the economy is booming and revenue flowing into the Exchequer, it is standard practice that the policies pursued should be counter-cyclical to reduce the boom, by a subtle combination of raising taxes and curbing current expenditure, while perhaps boosting some investment, say in education and training. In a recession, counter cyclical policies of spending and cautious tax reduction should ideally be pursued.

12. From 2008, the Government was forced to borrow, massively, to fund day-to-day spending, due to the unexpected collapse of the stream of taxes (which had been shifted from direct income to those based on the property boom), a setback compounded by the world economic crisis.

13. Substantial borrowing to fund day-to-day spending will continue beyond 2015 (even if the Government's targets and growth projections in the four-year plan are realised) and the 'adjustment', as it is called, means substantial cuts in public spending and tax increases.

14. In a deep economic crisis, like the present one, the Government informs each Department of cuts to its expenditure. In 2008, the Government underestimated the depth of the recession and had to introduce a second Budget for 2009, announced on 7th April 2009, with further deep expenditure reductions, following major cuts, including two unilateral cuts in public sector pay.

Express benchmarking against human rights

15. Three programmes impact greatly on the Budget. First, the Programme for Government must be considered each year in framing the Budget. All those involved in the Budget process will ensure that its aims are considered and the Government party or parties will seek to have their priorities implemented. Secondly, the social partnership agreements would have also been considered by Government officials.[7] The third major programme is the National Development Plan (NDP). This is, of course, part of the Budget itself, as it is the capital investment section of the annual Budget. It has however, been

[7] Since the termination of Social Partnership it is less important, yet as the ten year programme "Towards 2016" was agreed by the Government, its objectives and ambitions are still relevant.

considerably scaled down, twice. The current NDP runs to 2013. EU rules and Directives also have a major impact, as does the EU Growth and Stability Pact.

16. As well as all of the above, the Government's budgetary options have been further constrained by the four-year National Recovery Plan, the terms of which have been adopted as part of the Memorandum of Understanding between Ireland, the IMF, the EU and the ECB in order to access the loan facility that was agreed for Ireland in November 2010.

17. In addition, when compiling the Budget, Departments must have regard to the Constitution. Other cross-government initiatives influence the Budget (see the Value for Money initiative below). For example, poverty-proofing the Budget was introduced in 1998. The National Anti-Poverty Strategy (NAPS) and National Action Plans Against Poverty and Social Exclusion (NAPincl) guide Government action to reduce poverty. NAPS was initiated in 1997 and aimed to reduce, or ideally eliminate, consistent poverty by 2007. NAPincl is part of a ten-year European Union strategy to make a decisive impact on the eradication of poverty. Both NAPS and NAPincl take into account a range of indicators such as income, employment, health, education and housing. However, both have been criticised for the very limited nature of those indicators, and for not taking a human rights approach.

18. In Ireland, budgeting takes place in the absence of a legislative or constitutional framework that enshrines human rights, or an overarching national human rights action plan. However, Government could give an express place to human rights in the budget process, and the financial documents that emerge could expressly reference the state's human rights obligations as benchmarks, or as operating principles for the Budget process. This could be done by a statement/section in the Budget report, similar to the one on poverty. For example, there is an opportunity to incorporate human rights goals in the new national performance indicator announced in Budget 2011. The Minster for Finance announced that this will allow *"a variety of quality of life measurements to be assessed and reported on a regular basis, complementing traditional economic data. This will be used to guide policy development. It will allow the public to assess the progress being made across a range of indicators."*[8] The CSO is working on the development of this new national welfare index. The Stiglitz, Sen and Fitousssi report, called "Report by

[8] Financial Statement of the Minster for Finance, 7 December 2010 <www.budget.gov.ie>

the Commission on the Measurement of Economic Performance and Social Progress" is now widely accepted; even the OECD has embarked on broadening its measurement of economic progress from growth *per se* to include other indicators.[9]

Determining Maximum Available Resources

19. The requirement to expend the "maximum available resources" does not mean that a State must use all its resources, but rather that it must use the maximum that can be expended for a particular human rights purpose without sacrificing other human rights, or other essential programmes such as debt servicing. Implicit in this duty is a process requirement that a state can show that it has carefully considered all the possible resources available to it to satisfy each of the requirements of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), even if resources to give effect to full realisation are not immediately available. In the Budget documentation, it is not clear that resources in Ireland are allocated along human rights areas based on this model.

20. One area where there is a lack of transparency in relation to determining "maximum available resources" for human rights realisation is in tax expenditures. Tax expenditures are used as an alternative to direct cash grants, and are also termed 'tax incentives', 'tax initiatives', 'tax subsidies' or 'tax breaks'. The term depends on whether the user is a beneficiary (tax incentive or initiatives) or a taxpayer (subsidies or tax breaks). Tax expenditures which generate more revenue than their cost are potentially beneficial, provided they are structured correctly. However, many tax expenditures have costs far exceeding substantial grants. The unintended consequences of tax expenditures include their unknown cost – they often cost more than anticipated – and 'diffusion' – they spread to unintended beneficiaries. For example, tax reliefs to pension schemes have long favoured high earners, although the four-year plan and Budget 2011 address this issue to an extent

21. Two reviews commissioned by the Department of Finance have led to a greatly increased awareness of tax expenditures and of their true cost. The Goodbody Review of Area-Based Tax Incentive Renewal Schemes and the Indecon Review of Property-Based Tax Incentive Schemes were published in February 2006 and contained appraisals of tax expenditures. The commissioning of these reviews potentially signalled a welcome move to more evidence-based policy making. Both reports found significant unexpected costs

[9] See http://www.stiglitz-sen-fitoussi.fr/documents/rapport_anglais.pdf

in lost taxes, with little of the intended impact actually achieved. Regrettably, in Budget 2011, the Government decided to introduce new tax breaks for business, without undertaking any cost benefit analysis.

22. The Goodbody report made a number of recommendations, including that the decision to introduce any new tax incentives should be informed by a formal assessment of the likely costs and benefits. Evidence-based analysis of all new tax incentive schemes was also strongly recommended by the Indecon report to the Government, which Government publicly accepted. Even so, since 2006, decisions have been taken to extend existing, and introduce further, tax-based incentives, without implementing these recommendations. A further concern is that tax expenditures are not included in the annual Budget forecast of public expenditures.

23. However, the two reports on banking, published in June 2010, were so scathing of the costs that tax expenditures may finally be included and measured as fiscal policy.[10]

24. While there are criteria for capital expenditure in the Department of Finance, with spending of over €30 million requiring full cost-benefit analysis and with other criteria applying too, major public expenditure through the granting of tax incentives to investors was not subject to such evidence-based analysis until very recently.[11]

25. At the end of this paper, Annex A makes the case for a comprehensive public sector balance sheet as a tool to assess the totality of resources available to the state, within which the "maximum available resources" for meeting human rights targets could be more clearly determined. Such a balance sheet would show the value of all assets, and also all liabilities, within the state and provide a long-term view of the state of the public finances.

Participation – Who has influence on the Budget?

26. A key process requirement for a state's Budget under international human rights law is that society, and its representative groups, are enabled and empowered to participate in decision-making. It also appears to make sense – budgets have unintended consequences and civil society groups are useful in highlighting these consequences, and their human and financial costs, to Government.

[10] Regling and Watson (2010), Honohan (2010)
[11] The Finance Act 2010 brought in a requirement for cost-benefit analysis of new tax expenditure However, it was short lived and this requirement of evidence-based policy making seems to have been abandoned in the Finance Bill 2011.

27. The Irish budgetary process is relatively transparent, in that the key Budget documents are publicly available. However, the process is difficult for many outside the public sector or experienced lobbyists to understand. In addition, while the language and terminology used in the Budget process is of necessity complex, more could be done to make the documentation more accessible and self-explanatory. For example, a simplified explanation of the main points could be produced. While the Minister for Finance's speech is probably the most readable and accessible document, it does not convey all areas of the Budget and tends to highlight political achievements.

28. Any individual can endeavour to influence the budgetary process in Ireland. Individuals and groups may make submissions to the Department of Finance. Thus, the Irish budgetary process is on the face of it accessible to influence by all. In practice, however, it is unclear who has influence, why and how.

29. The Department publishes the submissions of most interest groups seeking influence. They also publish the main points made in some of the more important ones from major national organisations, such as the main employer organisations (IBEC, Small Firms' Association, the Construction Industry Federation) and the Irish Congress of Trade Unions, as well as farmers' organisations and those from the Community and Voluntary Pillar. Thus, the Government takes account of the views of the social partners, which are representative of many interests in the country. A number of other groups are influential in the Budget process like the Institution of Taxation in Ireland, representing the accountants and tax advisors, and the American Chamber of Commerce in Ireland which describes itself as "the primary collective voice of US companies located in Ireland". The American Chamber makes highly influential comments on the extent to which Ireland's policies are attractive to foreign direct investment.

30. The Freedom of Information Act (FOI) also allows further access to documentation to ascertain the real impact of the influence of powerful interests. Without the transparency that FOI brings, it is possible that influence against the public good might be exercised within Government by well-funded and powerful corporate interests. However, in order to determine who really has influence, a more transparent process, involving criteria against which submissions would be assessed, is required. This would assist in explaining which lobby groups command most attention and why. Recent proposals to regulate lobbying are welcome in this regard.

31. An article from *The Irish Times* (see Annex B) reveals how lobbying by powerful interest groups works in practice in Ireland, demonstrating the access by stockbrokers, the Stock Exchange and UK banking interests to senior Department of Finance and Revenue officials, and their influence on them. It demonstrates the pressure on officials, who are guided by their own counsel and experience, but ultimately directed by the Minister.

32. Against this example is contrasted the difficultly for small, poorly-resourced groups to be influential in the process. A concerted campaign by a charity or interest group on a topical issue can yield results in the Budget. This may, however, take many years to achieve. On the other hand, if a group's cause is championed by a political party or Minister, its work may be more rapidly rewarded. However, without guidance from Government on what sort of information and evidence is taken on board, and when and how it should be submitted, the degree to which the right of civil society to participate in Budget decision-making is respected is very unclear. Government could set out guidance for Departments for ensuring that information and evidence is sought from a range of groups to ensure equality of participation and opportunity.

33. Social Justice Ireland,[12] which took over the programmes and projects of CORI Justice, is a member of the Community and Voluntary Pillar, which is one of the social partners. It provides an excellent example of how an NGO with limited resources has developed a remarkable engagement with the budgetary process in Ireland. In 1986, it made its first pre-Budget submission for the 1987 Budget. The organisation has made a submission every year since, and immediately after the Budget it issues an analysis and critique of that Budget. It believes that all its policy recommendations should be evidence-based. Yet, despite its intensive engagement with the Budget over many decades, Social Justice Ireland believes that it has had much less impact than the evidence it produces has deserved.

'Value for Money'

34. Human rights based budgeting is not concerned just with how much the state spends towards fulfilling a human right. The effective and efficient utilisation of resources towards continual and meaningful improvement in human rights outcomes is an essential requirement. Therefore the adequacy of budget allocations must be considered together with data on the outcomes being achieved. Since human rights, and progressive realisation of economic, social and cultural rights, are concerned with

[12] See www.socialjustice.ie

improving the ability of individuals to enjoy and claim their rights, resource allocation must be accompanied by performance measurement systems so that the realisation of rights can be planned, implemented and measured. This requires the setting of targets and collection of data to enable consistent and continual monitoring of how outcomes are being achieved.

35. This approach would appear to be in line with the Government's 'Value for Money' approach, that is, the effective and efficient use of resources. (However, a key difference is that human rights require that that resource allocations and expenditures are expressly targeted at the realisation of rights.) An Efficiency Review of administrative spending across the public service was announced in conjunction with Budget 2008, underlining the Government's determination to secure maximum value for money in public services, and to release resources for frontline service delivery. The objectives of the resultant Government's Value for Money and Policy Review Initiative 2009-2011 are to analyse Exchequer spending in a systematic manner and to provide a basis on which more informed decisions can be made on priorities within and between programmes. It is one of a range of modernisation initiatives aimed at moving public sector management away from the traditional focus on inputs to concentrate on the achievement of results.

36. Value for Money Reviews are undertaken under the aegis of steering committees which are representative of the Departments/Offices managing the programmes/areas being reviewed. For the more significant reviews an independent chairperson is appointed and the Department of Finance is generally represented on the steering committees. Within the Department of Finance a Central Expenditure Evaluation Unit was established in mid-2006 to promote best practice in the evaluation and implementation of programme and project expenditure across all Government Departments and Public Sector Agencies. The Unit focuses in particular on ensuring that Department of Finance frameworks in relation to the appraisal and management of programmes and projects are being implemented, and overseeing ongoing Programme Evaluation under the Value for Money and Policy Review Initiative and the National Development Plan.

37. The OECD report on the efficiency of the Irish public service found that, overall, it was reasonably efficient but that it could be improved.[13] To the surprise of some, the size of the Irish public service was shown to be small by international standards.

38. The report contains a section setting out *"developments in relation to reform of the Estimates and Budgetary Process, within a medium-term budgetary framework consistent with the Stability and Growth Pact, and outlines the Efficiency Review of public expenditure"*. It says, "These reforms and reviews enhance public accountability and underline the Government's aim to secure maximum value for money in public services". It is mainly concerned with savings, but states that there are now Annual Output Statements, introduced in 2007, "designed to make explicit the public service outputs expected to be delivered with the public funds being allocated by the Dáil each year". The report also has a section on public service pay and modernisation. However, human rights and poverty reduction are not highlighted.

39. However, despite recent reforms, in general Government departments' Annual Output Statements and service plans are not strong on performance and impact targets explaining how they use the resources they are allocated. The Croke Park agreement has the potential for radical public sector reform and cost savings. Improved use of resources is possible, and indeed necessary. Furthermore, since it is very important that limited resources be used to maximum effect across all human rights, it requires a 'whole of government approach'; that is, costs and savings from actual or proposed budget increases or decreases in one human rights area must be mapped across other human rights areas. For instance, if a budget decrease in community mental health services is likely to result in more people being involuntarily detained in hospitals, or more people being detained in prisons, this involves not just the right to health but also the right to liberty, and spans the remit of more than one government department. This approach is not in evidence, with departments more concerned with the cost/benefit to them individually of any proposed allocation than with the cost/benefit to the State more generally.

40. Therefore, if value for money were achieved though designing robust performance and impact targets against which spending is constantly and transparently monitored, and

[13] OECD 2008

those targets were aligned with human rights indicators, Government's national policy and its international human rights commitments could be better aligned.

Equality

41. The Budget documentation does not explain how efforts are made to ensure that the distribution of proposed expenditures benefit all groups equally, and prioritises vulnerable and discriminated against groups. Voted expenditures are not disaggregated across groups, so apparent inequalities cannot be readily identified and explained. For example, the UN Committee on the Rights of the Child has commented that it is impossible to determine the equality with which children are treated without a children's budget.

Conclusion

42. The Budget must take account of many national strategic plans. However, human rights play no explicit role. It is unclear who, in civil society, fully participates in the budget decision-making process. The state does not convincingly explain how it assesses the maximum resources available to it for the realisation of rights. Money allocated in areas related to human rights is not sufficiently disaggregated across human rights contents, or social groups. While Government's 'value for money' approach would be broadly consistent with the human rights requirement of effectiveness, in general, there is a weak approach across government departments to performance and impact target-setting. As discussed above, the Budget process would not appear to comply with human rights principles and standards.

43. As with most countries, despite a period of vigorous economic growth, Ireland has been censured by UN and Council of Europe human rights mechanisms for many of the same human rights failings as a decade ago (e.g. housing). In many cases funding would be one of the requirements for bringing Ireland into compliance. Therefore, the degree to which the Budget progressively achieves human rights is not just of academic interest.

44. While meeting our legal obligations on human rights through the Budget process will pose a challenge to Irish politicians and state officials, if the Government recognises the value of framing and implementing budgets in human rights terms, from revenue raising to the details of expenditure, then it should be possible to execute initial steps towards such an approach over a short period of time. The formation of a specialist unit of professionals dedicated to long-term economic, infrastructural and social planning, and

supporting all Departments, is urgently required. Within such, there could be built in capacity for human rights programming.

45. There is major debate in Ireland on social issues, but the debate on economics is dominated by a neoclassical economic perspective, which would eschew human rights and other ‘distortions’ in an idealised marketplace, other than in the context of what is termed ‘market failure’. What is required therefore is a debate, initially, on the merits of adopting a more human rights focused approach to the budget process, in creating economic development (as opposed to the narrower focus on economic growth) and, by creating greater opportunities for all, in enhancing economic and social development. The Budget is a very complex process in itself, and adding a human rights dimension has not yet been explicitly considered by Government or opposition politicians in Ireland. The time for such an approach seems to be overdue if people are to be put at the centre of this vitally important process.

Annex A: "Maximum available resources" – The Case for a Comprehensive Public Sector Balance Sheet

A1. Government maintains an income and expenditure account of all money taken in and spent each year in its Budget, but does not construct a full balance sheet of all assets and liabilities within the state, and those in public ownership. This is the practice in several developed countries, though the method is still evolving. The Central Statistics Office does compile a financial balance sheet for the state, of all financial assets and liabilities within the state, and those owned by households and by the Government (but not other public bodies), called Institutional Sector Accounts.

A2. A full national balance sheet would show the value of all assets and also all liabilities within the state and provide a long-term view of the state of the public finances – not just income and expenditure, but all assets and liabilities. And it would attempt to show the publicly-owned assets and liabilities, those owned and owed by the state. This would provide a better view of the long-term strengths and weaknesses of a state compared to just the usual annual Budget deficits. A downside is that it can be very complex to undertake, and some figures are difficult to estimate accurately.

A3. The advantage of a national balance sheet from a human rights perspective is that it would inform people of the total aggregate wealth in an economy, of the risks posed to this wealth, where it is by region and by sector and, if it is well designed, by income stratum. Commitments to pay pensions or welfare at current rates, adjusted to inflation or earnings, could be called into doubt by a dramatic fall in national income (as occurred in 2008/2009). This means that the state might consume part of this wealth directly or indirectly as capital accumulation would be considerably reduced. In short, a national balance sheet gives a better picture of 'maximum available resources' – where we are and how we got here.

A4. In the UK, national and sectoral balance sheets for the economy as a whole and separately, within it, for the state, are published in the Blue Book. First produced for 1975, annual publication began in the late 1990s.[14]

A5. The Blue Book attempts to estimate the UK's assets and liabilities. It also has a Rest of the World Account covering the transactions between resident and non-resident institutional units and the related stocks of assets and liabilities. Various other accounts include satellite and environmental accounts.

A6. Its national and sectoral balance sheets include a lengthy list of the assets and liabilities of a variety of non-financial public corporations, which in Ireland might include NRA, ESB, Bord Gáis, CIE and non-commercial bodies such as the Disability Authority. It includes central government's assets and liabilities and those of local authorities. It lists non-commercial corporations' assets and liabilities and those of the financial corporations and what are called the monetary financial institutions, in Irish terms the Central Bank, IFSRA and NTMA. Insurance companies and pension funds, financial

[14] See, for example, http://www.statistics.gov.uk/downloads/theme_economy/BlueBook2006.pdf

derivatives, etc. on both sides of the nation's balance sheet (that is, with assets and liabilities) are also estimated. It includes the assets of households and of non-profit bodies which are serving households.

A7. With a Public Sector Balance Sheet, there are major policy questions of how to manage the public sector's or government's balance sheet in ways which reduce risk. The portfolio would include various investments such as the NTMA's investments in private equities, Government bonds and securities of other countries, which may have already reduced overall balance sheet risk. But the balance sheet would also include risks and liabilities, including potential risks. One major risk is the cost of public pensions which are paid out of current funds. While this is the case in many countries, if revenue falls, as it did dramatically in 2008/2009, the overall cost of the pensions remains and will consume a proportionately higher amount of expenditure. The use of a balance sheet should assist in the management of the public finances and in attaining value for money for the Irish taxpayer.

A8. A Public Sector Balance Sheet would provide much more accurate comparative data on Ireland's overall public wealth, including the kinds of physical assets we own compared to other countries. For example, we might find that investment in a functioning urban public transport system lags behind that of our European neighbours, but our investment in roads might be close to that of some other modern economies.

A9. Such investments have human rights implications. For example, investment in integrated, efficient and cheap public transport gives less well-off citizens greater mobility than investment in motorways. Such decisions have been determined under the Irish Budgetary process, but in the absence of a balance sheet.

A10. Had a Public Sector Balance Sheet been constructed at the beginning of the economic boom, economic policy might have been conducted differently and Ireland's citizens might be better off. For example, the value of total public assets in Ireland is only a little over half of the average of the other OECD countries (National Competitiveness Council, 2008). This small legacy of public wealth is due to low average national income over a long period of time. When national income soared during the boom years, more investment should have been made in our physical, cultural and environmental infrastructure. Ireland still has a major infrastructural deficit and there are now calls for less investment in the future due to the crisis.

A11. The construction of a Public Sector Balance Sheet should aim at good financial asset and liability management. The following issues should be considered:

- Fiscal sustainability will depend on both the future outlook of expected taxation and the risks around that model including volatility in tax revenue and the impact of changing tax rates, economic growth, etc;
- The best management of the balance sheet requires knowledge of how risks affect the balance sheet, including upturns in economic growth, downturns and unforeseen circumstances;

- Large unexpected state liabilities arising from mistakes/incompetence by some public officials and necessitating large public expenditure (for example, the blood bank and nursing homes scandals, the handing over of the West Link Bridge to a private investor in the mid-1980s and the under-specification of the Red Cow Roundabout and of the whole M50 motorway in the 1980s);
- How the Government's investment strategy could attempt to reduce the risk to government finances from macroeconomic shocks that regularly impact on the state and wider public sector Budget.

A12. There is a financial sector balance sheet for Ireland. It shows that the net financial assets of Irish households fell by €22.6 billion in 2007. The value of households' financial assets, which does not include housing or other real physical assets, was marginally higher than in 2006, as net acquisitions of €9.6 billion were almost fully offset by falls in asset prices (pension funds, equities, etc). However new liabilities (additional new borrowing) grew substantially in line with the level of previous years, resulting in the decline in net financial assets of Irish households. Total assets of households amounted to €308 billion, but with large debts, their net assets were €117 billion. Financial institutions claimed they had net assets of €3,122 billion, a figure which proved to be greatly inflated. Non-financial corporations had net assets totalling €481 billion in 2007. The true picture will only emerge when accurate valuations are provided by the Irish corporate sector, especially the banks.

A13. The Irish balance sheet was limited to financial assets until December 2009, when the CSO published its first "Estimates of the Capital Stock of Fixed Assets" which it did for 2008. So progress is being made in the area. It does not distinguish ownership between public private, corporate or household. Estimates can be made, based on the category of asset, but only to a limited degree between public and private assets. The Government has to decide if more work is to be undertaken to complete the National Balance Sheet to enhance policymaking based on a true picture of the nation's total assets and liabilities.

A14. Why would the construction of a Public Sector Balance Sheet be important from a human rights perspective? Principally because, by knowing exactly where state assets and liabilities are, and their value, policymakers can take more and better-informed decisions which ensure that maximum available resources are considered, better value for money and a taxation system aligned to the longer-term public interest. A fall in the value of the National Balance Sheet can inform people of the wealth and liability problems, actual and potential, of a country and so inform policymakers in their determination of "maximum available resources". And since a Public Sector Balance Sheet also informs policy makers on the impact of policy on long-term economic and social welfare, it would facilitate the long-term welfare of citizens through emphasising the importance of strategic and prudent policy.

A14. Given the current financial crisis it may be timely to develop, as a matter of urgency, the method for constructing a Public Sector Balance Sheet on its own or as part of a National Balance Sheet, for implementation when certainty of valuation of assets and liabilities is restored.

Annex B: 'Files show how plan to tax CFDs was ditched.' Article by Colm Keena, *The Irish Times*, 9th March 2009 (abridged)

On the following Monday a meeting took place between officials from the ISE, the Revenue, and the department. Notes produced by the ISE said much of the increased activity in the Irish market in 2005 was due to the emergence of hedge funds as significant players.

"It is now estimated that hedge funds account for around 30 per cent of overall activity and they use CFDs as their preferred instrument. They are likely to withdraw completely from the market if this interpretation is maintained; indeed a number of funds with significant investments in Irish equities have already ceased trading."

The ISE said the tax would place trading on the Irish market at a competitive disadvantage and the loss in liquidity involved could lead to an overall drop of 50 per cent in activity, hitting stamp duty receipts overall.

The move would mean *"that the very companies who are behind Ireland's fund administration industry would be put in a position where it was uniquely uneconomic to invest in Irish equities".*

The ISE was also concerned that Irish listed companies would de-register in Ireland and move to the UK and elsewhere. *"Irish companies have put considerable resources into building their international shareholder base and improving liquidity in their shares, and will not be prepared to see this work undone."*

The additional costs on a slim margin business could mean the difference between success and failure. *"Ireland, as a small market, would simply be seen as closed for business and the fund managers would look for opportunities elsewhere*," the ISE said. A note to the minister on March 27th explained that the Revenue announcement was *"causing consternation in the market for Irish shares".*

In a letter to Leamy the following day, Brian Healy of the ISE said inquiries had been made of the 11 member firms of the ISE. *"The responses from those firms indicate that the aggregate of their CFD transactions over Irish equities in 2005 was €33.1 billion, comprised €27.7 billion of institutional transactions and €5.4 billion of retail sources transactions."* Total turnover for the exchange was €108.8 billion.

Large investment banks had told the ISE that their hedge fund business in Irish shares had *"dried up"* since the Revenue announcement and there had been a "*very immediate and alarming fall in overall Irish equity market turnover*", Healy said. His letter was also sent to Kevin Cardiff, assistant secretary in the department.

Ian Harrison, director of the London Investment Banking Association, also wrote to Leamy and Cardiff, saying his members were *"extremely concerned"* about the Revenue announcement. On March 30th, the minister announced his review and the Revenue withdrew its notice to the market.

The market responded positively. Tom Healy, the then chief executive of the ISE, e-mailed Cardiff on March 30th, thanked him for his assistance, and said he would *"contact you soon to propose lunch"*.

Had the lobbying failed and the tax been introduced, would Mr Quinn have baulked at his vast investment in Anglo Irish Bank? Had this dissuaded him, he could have saved a billion lost in that doomed investment in a failing bank. This is a classical case of a successful business lobby getting what it wished for, but ultimately, it was not a successful action.

Annex C: Distribution of Income and Wealth (Lessons from Sweden and Norway)

C1. A human rights based approach to the budgetary process is taken more seriously by governments in several countries. In Sweden and Norway the vitally important impact which budgets have on income and wealth distribution is the focus of attention; issues of income distribution and gender must be considered in assessing the impact of a budget. Norway's government has appointed a Commission on Distribution of Wealth to research and explain the increase of inequality, and also how the distribution of the resources and of wealth can be made more equitable by policy changes in the future.

C2. Two important appendices bring a Human Rights approach to the Swedish Budget. One is the 'distribution of wealth appendix', which originally aimed at showing how the Budget affects different strata of the population. The second is an 'appendix on gender equality'. This has been more useful, making interesting data available for analysis for policy making. There have also been requests in the national parliament to enlarge and deepen the appendix on equality issues.

C3. There are also interesting sections in the equality appendix dealing with issues on integration and migrants. There are demands in Sweden now for studies into how the Budget affects children from different income strata. For example, Swedish Save the Children made a major statement on this issue in early 2009.

C4. In Norway, there is no complete review of the state's Budget and its effects on the overall distribution of wealth, but there is a review of the tax changes and their affects on distribution of wealth. This is detailed in the government tax statement.

C5. The Norwegian government has appointed a Commission on Distribution of Wealth and Income to research and explain the increase of inequality, and also how the distribution of the resources and of wealth can be made more equitable by policy changes in the future.[15]

C6. It was noted above that one progressive part of the Irish Budget from a human rights perspective since the late 1990s has been the addition to the Budget of the annex called Examination of Budget, Income Tax measures using the Poverty Impact Assessment Guidelines. However, this is a very limited way of examining the impact of the overall Budget on poverty. Welcome as it is, it is only one step on the road. It is clear that the impact of the changes in social welfare, which is an integral part of each Budget, should also be similarly examined. This would simply require an extension of current practice, whereby the impact of welfare change is included in example tables within the document.

[15] Its 2009 report is currently only available in Norwegian, but the author has discussed it with Bernt Sverre Mehammer (the economic advisor to Ms Kristin Halvorsen, Minster for Finance) who hopes that an English-language version will be published. A member of the Commission, Stein Reegaard, told the author that with broad consensus, the members hoped that the recommendations will be addressed, but that they recognised it would be over the coming years.

C7. What is also lacking in the examination is the impact of the changes made in other areas of taxation; such as consumption taxes (VAT and Excise), user charges, inheritance taxes, subsidies to businesses, subsidies to farming, subsidies to fishing, subsidies to private schools, subsidies to property owners, hoteliers, investors, etc. Thus, the current assessment of poverty impacts in the Budget ignore the impacts of the array of other tax changes on the distribution of income and the effect on people on low incomes, and is therefore of limited use.

C8. It has been noted above that the Budget must take account of many national strategic plans. These programmes which impact significantly on the Budget include the Programme for Government, social partnership agreements and the National Development Plan. EU rules and Directives also have a major impact, as does the EU Growth and Stability Pact. As of 2010, the Budget is now further constrained by the Memorandum of Understanding with the IMF, EU and ECB.

Bibliography

Bristow, J. (2004) Taxation in Ireland: An Economist's Perspective, Dublin: Institute of Public Administration.

Cantillon, S, in O'Hagan, J and Newman, C (2005) 'Equality in economic and other dimensions' in The Economy of Ireland: National and Sectoral Policy Issues. Dublin, Ireland: Gill and McMillan

Central Statistics Office (December 2008) Institutional Sector Accounts. Dublin. http://www.cso.ie/releasespublications/documents/economy/current/isafinre.pdf

Comptroller and Auditor General (2007) Report No. 57 on the Financial Regulator's Office, Dublin: Stationery Office. CSO Institutional Sector Accounts Department of Finance (2006) Budget2006, review of Property Based Tax Incentive Schemes, Volume I, Dublin: Indecon.

Department of Finance (2006) Budget2006, review of Property Based Tax Incentive Schemes, Volume II, Dublin: Goodbody Economic Consultants, Mazars and HKR.

Department of Finance, National Reform Programme 2008-2010, Dublin: Stationery Office.

European Commission (2008) Ireland: Macro Fiscal Assessment, an Analysis of the December 2007 Update of the Stability Programme, Brussels.

European Council (2008) Council Opinion on the Updated Stability Programme of Ireland,2007 – 2010, Brussels. Financial Times,2-4 March (inclusive) 2009

Fitz Gerald, J.(2000) 'The Story of Ireland's Failure – and Belated Success' in B. Nolan, P.J. O'Connell and C.T. Whelan (eds.), *Bust to Boom? The Irish Experience of Growth and Inequality*, Dublin: Institute of Public Administration.

HM Treasury (annually) Whole of Government Accounts, London: HMSO.

Irish Congress of Trade Unions (2004) Tax Cuts did not Create the Celtic Tiger.

Irish Congress of Trade Unions (2005) Submission on Tax Expenditures.

Kennedy, K, T. Giblin and D. McHugh (editors,1988) *The Economic Development of Ireland in the Twentieth Century*, London: Routledge.

McDonald, F. and K. Sheridan (2008) *The Builders: How a Small Group of Property Developers Fuelled the Boom and Transformed Ireland*, Dublin: Penguin Ireland.

National Competitiveness Council (2008) *The Competitiveness Challenge*, Dublin: Forfás.

Norwegian Distribution Committee (April 2009) Report from a panel appointed by the Ministry of Finance. http://www. regjeringen.no/pages/2185274/PDFS/NOU200920090010000DDDPDFS.pdf

Norwegian Ministry of Finance (2009) Press release from the Distribution Committee: Report on economic differences in Norway, http://www.

regjeringen.no/nb/dep/fin/pressesenter/pressemeldinger/2009/kampen-mot-sosial-ulikhet-begynner-i-bar/rapport-om-okonomiske-forskjeller-i-norg. html?id=559430

O'Grada, Cormac (1997) *A Rocky Road: The Irish Economy since the 1920s*, Manchester: Manchester University Press.

O'Hagan John and C. Newman (2005) *The Economy of Ireland*, Gill and McMillan, Dublin.

OECD (April 2008) Review of the Irish Public Sector, Paris. OECD Observer, summer 2000, Paris.

Sweeney, Paul (2000) *The Celtic Tiger, Ireland's Continuing Economic Miracle*, Dublin:OakTree Press.

Sweeney, Paul (2008) *Ireland's Economic Success: Reasons and Lessons*, Dublin: New Island Press.

Official publications

Appropriation Act (annually).

Budgetary Strategy Memorandum (annually).

Comptroller and Auditor General annual reports.

Exchequer Receipts and Expenditure (quarterly).

Expenditure Review Initiative.

Finance Bill (annually).

Output Statements (annually).

Pre-Budget Outlook (annually).

Revised Estimates (annually).

Further Revised Estimates (annually).

Stability Programme Update (annually).

White Paper on Receipts and Expenditure (annually).