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DFID's Human Rights Policy

Scoping Study

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Executive Summary

The DFID Equity and Rights Team commissioned this scoping study of DFID's current policy on human rights in response to recent changes in DFID's human rights policy environment. The study does three things. First, it examines the policy framework for DFID's work on human rights. The study reviews policy that applies to all UK government departments, as well as policy specific to DFID, in terms of their relevance for DFID's policy and position on human rights. Second, it undertakes a detailed review of DFID policy in relation to eight specific human rights: political participation, health, education, adequate standard of living (including food, housing and water), social protection, women's rights, children's and youth rights, and the right to development. In particular, the study explores the degree to which DFID policy is explicitly rooted in, and consistent with, international human rights standards. Third, the role and position of the FCO vis-à-vis human rights and its collaboration with DFID are discussed. The FCO is the lead on human rights for the UK government in its external relations and is therefore an important partner for DFID in relation to its work on human rights.

Main findings: DFID policy framework for human rights and its use of the international human rights framework

The **overarching policy framework for DFID has evolved** in such a way as to provide an enabling environment for the more systematic integration of human rights into DFID's policy and practice. This finding is based on high-level and mandatory policy that makes human rights increasingly relevant by establishing a mandatory requirement for DFID country offices to systematically incorporate human rights considerations into their strategic and planning processes and decisions (e.g. Conditionality Policy, Country Governance Analysis, Human Rights Act). Recent policy also provides the basis for a more rounded approach to human rights promotion. The 2006 White Paper gives greater emphasis to the role and nature of the state, including the fulfilment of its international human rights obligations, alongside DFID's established concern with promoting participation, inclusion and an active citizenry. This facilitates an approach to human rights that supports the capacity of individuals to claim their rights and the state to fulfil its international human rights obligations. The focus on state effectiveness, good governance and democratic politics in the 2006 White Paper and related policy also strengthens the linkage between human rights and poverty reduction.

Based on a review of DFID policy in relation to eight human rights, the study finds that **DFID regularly makes explicit reference to human rights in its sectoral policy documentation**. The most frequent references are found in DFID's governance documents and those applying a rights-based approach; others tend to hold more isolated or sporadic references (e.g. education policies, Social Transfers Practice Paper, health policy). Reflecting the approach taken in the 2001 Human Rights TSP, the majority of references deal with generic human rights or human rights principles (in particular discrimination and participation). **There are references to specific human rights, and these appear to be increasing, but these are usually isolated statements** that are not well integrated into the documents.

The review also finds **variation in exactly how human rights are incorporated into DFID sectoral policy** – and, more specifically, the degree to which the approach to human rights is grounded in the international human rights framework (instruments, standards, state obligations). An important finding of this review is that **increasing reference by DFID to human rights has not been accompanied by**

increased use of the international human rights framework. Where the source of a specific human right is identified, this tends to be either: (i) a reference to the UDHR rather than to the relevant legally binding treaty (e.g. the scant reference to CEDAW in the Women's Empowerment TSP, or the absence of reference to ICESCR in the UPE TSP); or (ii) a box or footnote identifying the relevant instruments/standards, which is disconnected from the primary analysis and policy measures within the document (e.g. Social Transfers Practice Paper).

The weak linkage of specific human rights to legally binding international instruments and standards means that **recognition of specific human rights is not linked to recognition that these entail obligations for the state.** References to state obligation and duty are minimal, including in the more recent documents that relate specifically to governance and the state. More could be done to construct a coherent argument that connects human rights to standards to legal obligation to accountability for these specific entitlements (as in the UK Statement on the Human Right to Water).

In addition, the weak linkage between references to human rights and legal standards results in a **lack of emphasis on the importance of domestic legal provisions** to human rights fulfilment and enforcement. There are few references to the importance of the domestic codification of human rights and, apart from in the HR TSP, these tend to be in relation to rights to equality/non-discrimination rather than to positive entitlements (i.e. to a particular service). Human rights standards and their translation into national frameworks establish concrete positive entitlements for citizens to mobilise around and demand accountability from the state, an approach that is consistent with DFID's position that improved governance and accountability are important if the MDGs are to be achieved.

Human rights standards are not well covered in DFID sectoral policy: mostly there is no discussion of the content of the right as described in the related provisions and standards. (The UPE TSP is a positive example of discussion of the content of a specific right.) DFID also appears more comfortable with recognising negative rights than positive entitlements (i.e. freedoms from state interference/discrimination rather than freedoms to specific entitlements/services). For instance, the theme of non-discrimination or non-interference in relation to women's ability to access services is much more prominent in the sectoral policies than discussion of the positive entitlements to specific services.

DFID could better utilise the international human rights framework as a constructive resource because it provides guidance on the more specific actions required by government to fulfil their treaty obligations. It can therefore also help DFID move from recognition of a specific right to the types of *policy measures* that can positively support governments to fulfil their obligations. Documents relating to specific vulnerable groups have the opportunity to draw on a specific instrument directed at them (e.g. CEDAW, CRC). Other resources (thematic reports by Special Rapporteurs and General Comments) outline expert interpretation of the content of specific human rights and the steps needed to implement them. The UK Statement on the Human Right to Water and the 'How to' on maternal deaths are positive examples of utilisation of the international human rights framework.

The findings concerning DFID's overarching or strategic policy framework relate to policy developments since 2005 (e.g. Conditionality Policy and 2006 White Paper). The sectoral policy documents reviewed in relation to the eight human rights include policy produced since 2000. It is therefore not surprising that a more rounded approach to human rights that DFID's high-level policy now supports is not currently

reflected in DFID's sectoral policy. At the same time, this review can provide a baseline that enables assessment of the consistency between the approach to human rights in DFID's high-level and sectoral policy and the identification of entry points for strengthening this.

Possible drivers of DFID's future human rights policy and guidance

UK legal human rights obligations and DFID's policy environment

The Human Rights Act (HRA) Guidance Note states that DFID should assess all its decisions and activities to determine whether they risk infringing a HRA right. This would suggest that the Human Rights Act could be a driver of more systematic integration of human rights into DFID's strategic and planning processes. This requirement raises certain issues, such as the level of expertise that DFID staff would require; the specific rights with which DFID must ensure compatibility; and the exact meaning of 'ensuring compatibility', as this determines how extensive an impact this requirement could have on DFID policy and practice.

At the same time, whilst the Human Rights Act has clear legal implications in relation to those living within the UK's jurisdiction (particularly in terms of civil and political rights), DFID's remit mostly relates to those living outside UK jurisdiction. The HRA obligation for DFID to act compatibly with HRA rights applies only to acts within the UK and within limited extraterritorial exceptions. There is minimal risk that an individual in one of the UK's partner countries could bring a claim against DFID on the basis of the HRA. Similarly, the UK's ratification of the six core international human rights treaties does not entail a legal obligation for the UK – and therefore DFID – to provide development assistance or to respect and promote the human rights of individuals living outside the UK's jurisdiction. **The UK's international and domestic legal human rights obligations are not therefore a clear driver of DFID human rights policy.**

The requirement under the Human Rights Act Action Plan for all UK government departments to build a culture of respect for human rights is a potential driver of greater attention to human rights within DFID. This requires a different level of understanding of the international human rights framework, implying raising awareness of the international treaties and state obligations, establishing common principles and working to ensure consistency, but not requiring the legal expertise needed to make assessments of potential violations or infringements. Bringing about a change in culture within DFID requires senior management commitment, as well as resources (e.g. for training).

There is a need to distinguish between UK legal obligations and other political or policy positions relating to human rights that the UK or DFID chooses to take. The (mandatory) **Conditionality Policy and Country Governance Analysis are perhaps the strongest drivers of a more systematic consideration of human rights within DFID.** These policies emphasise state actions and obligations and the quality of governance. The accompanying guidance will determine the impact of these recent policies/instruments and the approach to human rights that they support.

Finally DFID's agenda and commitment on **governance, state building and democratic politics** will continue to provide a key driver for DFID engagement with the human rights agenda. The argument is that effective states are built on good governance, which requires states to be capable, accountable and responsive. Human rights are central to DFID's understanding of both accountability and

responsiveness: civil and political rights are highlighted as being critical for accountability and the promotion of equality and respect for human rights is presented as an outcome and a measure of the degree to which a state is responsive. The importance of governance to ensuring the full range of human rights – both ‘freedoms from’ and ‘freedoms to’ – is emphasised in DFID documents, as well as the relationship between these and poverty reduction.

Working with others: the FCO and human rights

DFID’s formal commitment to greater policy coherence for development is a **potential driver of increased collaboration and policy coherence between DFID and the FCO, including on human rights issues**. Increased contact is also likely to result from the greater prominence of human rights in DFID’s policy and high-level ministerial statements, joint policies (e.g. Conditionality Policy) and activities of common interest (e.g. Country Governance Analyses). These are likely to stimulate closer working at policy and operational levels. At present, cooperation at international and headquarters/policy level appears to be largely ad hoc, for instance around specific issues or international processes. At country level, the relationship depends on resources and country-specific issues and programmatic focus.

The **FCO has a much more clearly defined role and position in relation to human rights than DFID**, one that is firmly grounded in the international human rights system. The promotion of human rights is seen as a core part of UK foreign policy, along with good governance and democracy. The FCO has the formal lead on human rights in the UK’s external relations and is responsible for representing the UK in international forums and bilateral discussions on human rights. This position requires that the FCO consults and works with other departments and advises them on international law.

There are **clear areas of consistency** between the approach and priorities of the FCO and DFID that provide avenues for cooperation. Both departments recognise the importance of human rights to sustainable development, poverty reduction and the MDGs. One of the FCO’s strategic priorities is the promotion of sustainable development and poverty reduction, underpinned by human rights, democracy and good governance (SP7). These are priorities that are also shared by DFID. Both departments also share a commitment to supporting developing countries to fulfil their human rights obligations through positive engagement and long-term partnerships. The Conditionality Policy and Country Governance Analysis mean that DFID should now systematically consider the record of partner countries on human rights and engage with the FCO around these processes. Finally, both departments have expertise that the other can capitalise on.

The differences in priorities and approach of DFID and the FCO in relation to human rights also suggest **possible tensions**. The FCO and DFID share high-level priorities but in practice focus on different issues. For instance, the FCO concentrates its time and resources on the promotion of civil and political rights, whereas much of DFID’s work relates to economic and social rights. The FCO’s priority human rights themes (torture, death penalty, child rights) are not issues that DFID prioritises. Perhaps more fundamental is the differences in approach to human rights. DFID’s high-level policy supports greater focus on the state and its international obligations but it is not clear how this will be translated into operational priorities and whether its approach to human rights will be compatible with the FCO’s. DFID’s primary mandate and lens, including in relation to human rights, is poverty reduction and the MDGs, whereas the FCO’s approach to human rights is firmly grounded in the international human rights framework. Human rights and the MDGs can be mutually supportive frameworks but

the Vietnam CGA suggests they can also lead to differences of emphasis. In addition, DFID policy teams and country offices may not find it desirable to adopt a more legalistic approach to human rights (for instance, it may be perceived as closing down policy options or have limited practical impact). They may also not have the capacity or technical expertise to implement such an approach.

Ad hoc drivers

The importance of more ad hoc drivers must also be recognised. Where DFID has moved to explicitly recognise specific human rights or integrate human rights more fully in its approach to a particular sector/issue, it seems that the NGO lobby, individual champions (e.g. Secretary of State) and idiosyncratic incentives (e.g. to raise the profile of a particular area of DFID's work) have been critical.

Entry points for strengthening human rights policy and practice

There is both an **opportunity and a need to provide better guidance to policy and country teams on how to integrate a more rounded approach to human rights promotion** into their work. This review suggests that practical guidance is likely to be more effective than new policies. Such guidance should facilitate understanding of the implications of DFID's policy portfolio as a whole for human rights promotion and how this can be coherently implemented.

Moreover, there are continuing reservations about the relationship between human rights and poverty reduction, as well as uncertainty about how human rights promotion can be implemented in practice. Efforts should be made to generate better evidence about how the realisation of human rights has practically contributed to poverty reduction. The most effective strategy would be a selective one, beginning with areas where: DFID already has considerable experience; it is easiest to strengthen the linkage with the international human rights framework and with good effect; and policy, evidence or experience suggests there is a strong relationship between human rights and poverty reduction.

A twin-track approach to supporting policy and country teams to implement a more rounded approach to human rights promotion is therefore recommended. This would seek to provide clarification of current policy in relation to human rights and support the effective and coherent implementation of this policy.

In providing **clarification**, there is a particular need to:

- Conduct further research looking at the position of the UK vis-à-vis human rights and government coherence on human rights.
- Clarify what the UK's international legal obligations and the HRA mean for DFID human rights policy and practice, based on appropriate legal advice.
- Clarify what UK and DFID policy as a whole means for DFID's position on human rights (including its relationship to poverty reduction) and what this means for DFID's approach to the promotion of human rights (including what is new about this approach).
- Assess the implications this has for the suitability of the current Human Rights TSP as a guide to how DFID fulfils its commitments to integrate human rights into its work and the importance of this to its poverty reduction objectives.

To support the **strategic implementation** of human rights policy there is a need to:

- Promote greater understanding of the international human rights framework and state obligations, to enable DFID to use the framework as a constructive resource that can help provide greater coherence to its human rights policy.

- Provide practical guidance to country offices on how to implement mandatory policy requirements, on the implementation of the Conditionality Policy and on moving from the Country Governance Analysis to strategic decisions on whether and how to assist partner governments.
- Identify strategic areas for policy implementation, where possible through collaboration with country offices and existing programmes in order to create greater human rights buy-in within DFID and provide a basis for work in more contested areas. It is suggested that equality and non-discrimination, and good governance and democratic politics are two such strategic areas.
- Build on and integrate with other forms of assessments and guidance to avoid further proliferation, working with the teams responsible for the CGA and Conditionality Policy to strengthen human rights analysis and guidance and to offer support to country offices trying to put the guidance into practice.
- Adopt an approach of working collaboratively with country offices to generate evidence and practical guidance to be shared with other country teams. Collaboration with other agencies at country level is also desirable.
- Recognise that integrating human rights is a question of culture and values. Domestically, the UK does not have a strong human rights culture; the HRA requirement that all public authorities build a culture of respect for human rights will therefore necessarily be an incremental and long-term process.

Abbreviations

CAP	Country Assistance Plan
CAR	Capability, Accountability and Responsiveness Framework
CAT	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All forms of Discrimination Against Women
CESCR	Committee on Economic, Social and Cultural Rights
CGA	Country Governance Analysis
COHOM	European Council Working Groups on Human Rights
CRC	Convention on the Rights of the Child
CSO	Civil Society Organisation
DAC	Development Assistance Committee of the OECD
DCLG	UK Department for Communities and Local Government
DEFRA	UK Department for Environment, Food and Rural Affairs
DFID	UK Department for International Development
DRTD	Declaration on the Right to Development
DTI	Department of Trade and Industry
ECHR	European Convention on Human Rights
EU	European Union
FCO	UK Foreign and Commonwealth Office
HRA	Human Rights Act
HRBA	Human Rights-Based Approach
HRDGG	Human Rights, Democracy and Governance Group (FCO)
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDT	International Development Target
ILO	International Labour Organization
MDG	Millennium Development Goal
MoD	UK Ministry of Defence
MoH	UK Ministry of Health
MoJ	UK Ministry of Justice
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the UN High Commission for Human Rights
OSCE	Organization for Security and Co-operation in Europe
PRAMs	Participatory Rights Assessment Methodologies
PSA	Public Service Agreement
RTD	Right to Development
SP	Strategic Priority (UK Government Departments)
TSP	Target Strategy Paper
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UPE	Universal Primary Education

1. Introduction

The Equity and Rights Team (in DFID's Policy Division) commissioned this scoping study of DFID's current policy on human rights. It is set within the context of the UK government's policy on human rights in relation to its external relations.

This study has been commissioned in response to recent changes in DFID's human rights policy environment. These include the Human Rights Act, the cross-Whitehall Conditionality Policy and, most recently, the 2006 White Paper. The 2006 White Paper reinforces the policy commitment that DFID makes to support the realisation of human rights in its 1997 and 2000 White Papers. In addition, it recognises specific human rights (e.g. the right to education) and emphasises the role of effective and well governed states in the promotion of development and poverty reduction. The Human Rights Act and Conditionality Policy recognise human rights as legal entities which states have an obligation to uphold.

This study will review how DFID policy relates to eight specific human rights and the corresponding international legal human rights standards and state obligations for these, rather than DFID policy on human rights in general. While human rights are often referred to in general terms, the international human rights treaties contain standards that establish specific human rights (such as the right to vote or the right to education). These treaties therefore establish the legal right to individual/specific human rights rather than to human rights in the aggregate. A state that has ratified a treaty has a legal obligation to uphold the specific human rights/standards within that treaty. In the human rights framework, individuals are described as 'rights-holders' and the state, which has the obligation to respect, protect or fulfil specific rights, is described as the 'duty-bearer'.

This study therefore differs from, and complements, other reviews¹ by:

- Providing a detailed analysis of DFID policy;
- Reviewing DFID policy in relation to eight specific human rights; and
- Exploring the degree to which DFID policy on these eight specific human rights is *explicitly* rooted in, and consistent with, international human rights standards.

This is a desk-based study, reviewing key policy and guidance documents (UK, DFID and FCO), supplemented by a limited number of interviews with DFID and FCO advisors (see Annex 3). A DFID advisor was interviewed in relation to each of the eight human rights to supplement the document review and provide information on collaboration with other UK departments. A group interview with FCO advisors from the Human Rights, Democracy and Governance Group (HRDGG) was conducted.

The report is structured as follows. Section 2 examines DFID's human rights policy framework (including UK government policy and policy specific to DFID). Section 3 explores the role of the FCO vis-à-vis human rights, its position and priorities and how it works with DFID. Section 4 reviews DFID policy in relation to eight specific human rights, including a civil and political right (political participation); economic, social and cultural rights (health; education; adequate standard of living, including food, housing and water; and social security); human rights of vulnerable groups (women's rights and children's and youth rights); and the right to development. The detailed analysis supporting the key messages in this section is provided in Annex 1. The study concludes with a summary of the main findings and recommendations on entry points for strengthening DFID policy and practice (Section 5).

¹ In particular DFID's Human Rights Review (Piron and Watkins, 2004).

2. Policy Framework for Human Rights

This section describes the policy framework for human rights within the UK. It reviews policy that applies to all UK government departments as well as policies that are specific to DFID. This is not a generic review of these policies; they are examined in terms of their relevance for DFID's policy and position on human rights.

2.1 UK government

International human rights treaties

There are six core international human rights treaties:

- (i) The International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966);
- (ii) The International Covenant on Civil and Political Rights (ICCPR) (1966);²
- (iii) The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (1965);
- (iv) The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (1979);
- (v) The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (1984); and
- (vi) The Convention on the Rights of the Child (CRC) (1989).

These treaties entail legally binding obligations for the states that are party to them (i.e. have signed and ratified them) to respect, protect, promote and fulfil the human rights that the treaties give rise to. Each treaty has a committee of experts, which monitors implementation of treaty provisions by state parties. State parties are required to submit periodic reports to these committees outlining their progress in fulfilling their obligations.

The UK has ratified all six treaties. This is a strong statement of UK commitment to human rights and **the standards established by these treaties constitute the primary source of UK policy on individual human rights**. The obligation that the UK government has to respect and fulfil these rights is towards all individuals within its jurisdiction. Ratification of the treaties does not imply, therefore, that the UK has obligations vis-à-vis the human rights of individuals living within the jurisdiction of other countries (see below regarding extraterritorial application of the core human rights treaties). The UK government is also party to other international and regional treaties. Two of particular note are the ILO Declaration on the Fundamental Principles and Rights at Work (1998) and the European Convention on Human Rights (ECHR) (1950).

International law – including human rights law – is constantly evolving. An area of current debate revolves around the extent to which international human rights standards imply obligations to protect the rights of those residing in other countries.

Three specific areas of debate are:

- (i) Whether Article 2 of the ICESCR, which refers to international assistance and cooperation, implies an obligation to provide development assistance to progressively realise the economic, social and cultural rights of individuals within in other countries. **The UK government has consistently taken the position in international discussions that it does not accept a legal**

² Together with the Universal Declaration on Human Rights (1948), the ICESCR and ICCPR form the International Bill of Rights.

obligation to provide development assistance. It is believed that moving away from this position would constrain the ability of the UK government, and DFID in particular, to set its own policy in these matters.³

- (ii) The nature of extraterritorial obligations (i.e. whether obligations are applicable outside UK jurisdiction). ICCPR, CAT and CRC have a provision stating that the rights apply to individuals within the territory/jurisdiction of the state party. ICERD and CEDAW have no such provision. **Only in the case of the ICCPR has the UK conceded that there might be extraterritorial application**, and then only in circumstances where individuals are being held in UK-run military facilities outside the UK (UK 6th Report to Human Rights Committee). The UK has not accepted that it exercises effective control/jurisdiction in either Afghanistan or Iraq and therefore has stated that CAT does not have extraterritorial application in these cases (Response to Committee Against Torture, November 2004). The UK government may review its position on extraterritorial application of the core international human rights treaties as a result of the House of Lords judgement on the *A/ Skeini* case related to the extraterritorial application Human Rights Act (HRA). However, even if this happens, **it is difficult to imagine circumstances in which DFID's obligations would be engaged overseas**, because the House of Lords confirmed the Court of Appeal's finding of an extremely narrow basis for extraterritorial application of the HRA/ECHR, i.e. circumstances where the UK has 'effective control' of a territory or exercises all or some of the public powers normally exercised by the government or the UK exercises authority over an individual (e.g. in a detention centre).⁴
- (iii) The extent to which the UK has a responsibility to 'do not harm' to the human rights of citizens living in other countries. It is clear that the domestic authorities in those countries have the legal responsibility to regulate the actions of foreign actors such as the UK government/DFID (interview).

Human Rights Act

On 2 October 2000, the UK HRA (1998) came into force. This was a significant development as, for the first time, certain **rights from 1950 ECHR had been translated into UK domestic law**.⁵ This does not change the nature of the legal obligations, already established in international law, but it does mean that Convention rights are now enforceable in UK courts. This means that **all public authorities have to respect ECHR rights and ensure that all their policy and actions are compatible with the Convention rights**, unless an Act of Parliament makes this impossible. Failure to do so would mean that it would be possible for a victim of a breach of one of the Convention rights to bring a claim against a public authority in a UK court (Department for Constitutional Affairs, 2006).

³ This is also the position taken in the recent UK Statement on the Human Right to Water, which does not include acceptance of international legal obligations vis-à-vis realisation of the right to water, despite these being part of ICESCR General Comment 15 on the implementation of the right to water (see below).

⁴ Other parts of UK law also contain extraterritorial obligations (e.g. the Freedom of International Act and the Human Rights Act) but, again, these obligations relate to how the UK government does its own business rather than implying that it has obligations towards citizens of other states (interview).

⁵ The rights contained within the ECHR are mainly civil and political rights. A notable exception is the right to education, which the UK government has a special reservation against, to establish that this is not an absolute right but is limited to the extent that it is necessary to provide efficient education within public spending limits. Mirroring the ECHR, the HRA therefore also mainly guarantees a set of civil and political, rather than economic, social and cultural, rights.

As a UK government department, DFID must act in ways that are compatible with the HRA rights. This means that legislation, such as the International Development Act, must be interpreted and given effect in a way that is compatible with HRA rights. However, the requirement for the UK to act in ways compatible with the HRA only applies to acts within the UK and within limited extraterritorial exceptions. This is because the HRA applies primarily to individuals within UK jurisdiction and, as discussed above, the recent judgement of the House of Lords on the *Al Skeini* case confirmed the narrow basis for extraterritorial application of the HRA to circumstances where the UK has 'effective control' or exercised 'state agent authority'. It is difficult to imagine circumstances in which DFID obligations would be engaged in this way and **the risk of an individual claim being brought against DFID in relation to its overseas activities is therefore extremely minimal.**

The HRA Guidance Note (DFID, 2005e) advises that a human rights perspective inform all DFID's policy and decisions and that DFID assess the likelihood of its activities infringing a convention right, including the extent to which this could be attributed to DFID. The HRA Guidance Note further suggests steps that can be taken by DFID employees to ensure compliance with the HRA, and Human Rights Assessments have now been made mandatory as part of DFID's Country Governance Analysis. The HRA does not give effect to economic, social and cultural rights under UK law, except for the right to education. At the same time, the Guidance Note states that 'it is DFID *policy* to seek to ensure that all our decisions in the UK and overseas are compatible with the convention rights' (emphasis added). All UK public authorities and departments are encouraged to integrate human rights into their policies and decisions to build respect for human rights as a core value. **The HRA therefore intends to put a culture of respect for human rights at the heart of the work of UK departments.**

Conditionality Policy

A further policy development signalling the UK government's commitment to human rights is the 2005 Conditionality Policy. This is a joint DFID, FCO and Treasury policy. **It establishes that UK aid partnerships will be based on shared commitments of the UK and its partner countries to three objectives: (i) respect for human rights and other international obligations; (ii) reducing poverty and achieving the Millennium Development Goals (MDGs); and (iii) strengthening financial management and accountability.** This policy specifies that progress on these three commitments will be assessed against agreed benchmarks. A country's human rights situation will be 'assessed on the basis of the partner country's own international human rights obligations'. It also states that DFID will assess the possibility of incorporating human rights benchmarks into those for determining progress on poverty reduction. The policy establishes that the UK will consider reducing or interrupting aid if countries are in significant violation of human rights or other international obligations. The policy does not elaborate what might constitute a significant violation or how this might relate to progress on other commitments, that is whether the three commitments are weighted equally or whether there is a hierarchy of commitments, with poverty reduction in pole position.

The Conditionality Policy explicitly states that: 'The UK Government believes that the realisation of all human rights underpins sustainable development. States have a shared responsibility to ensure that human rights are upheld, that violations do not take place, and that governments respect their international obligations. Donors have a particular responsibility, as part of their accountability to parliament and the public, to ensure that their development assistance is not used in ways that abuse human rights'. This includes the UK endeavouring 'to ensure that our own policies ... do not

impede the ability of recipient governments to fulfil their human rights obligations'. The draft guidance on the implementation of the Conditionality Policy also states that DFID's obligations under the HRA mean that DFID must ensure that its 'assistance is not used in ways that is incompatible with human rights. This means considering decisions taken on country programmes carefully from a human rights perspective' (DFID, 2006a).

The Conditionality Policy is an important development because, as a mandatory policy, it **should ensure that DFID systematically takes a government's commitment to human rights into consideration when it makes decisions about the selection of partners and during periodic assessments to assess partner's continuing commitment and progress**. It should also ensure that DFID country offices take human rights, and in particular the state commitment to and fulfilment of their obligations in relation to these, into consideration in their assessment and planning processes.

2.2 DFID

Public Service Agreement

DFID's Public Service Agreement (PSA) with the UK Treasury is based on its contribution to the 'elimination of poverty in particular through achievement by 2015 of the MDGs', with individual targets based on, *inter alia*, poverty reduction and the MDG targets, increasing the impact of multilateral systems and bilateral support on poverty reduction, conflict prevention, responding to emergencies and addressing trade barriers. **The PSA does not include a specific target or indicator relating to either human rights or governance, and the targets do not use human rights language**. There are, however, a few targets drawn from the MDGs that are proximate to human rights, for instance, increased primary school enrolments or an increase in ratio of girls to boys attending primary school (Maguire, 2007). The current PSA expires in 2008 and will be replaced by a new PSA on poverty, a joint PSA on conflict with the FCO and Departmental Strategic Objective, including indicators on governance.

As described above, one of the implications of the HRA is the commitment of the UK to build respect for human rights as a core value of the work of UK public authorities. While there are real issues relating to incentives to work on human rights because they do not feature in DFID's PSA, **existing DFID policies do provide a good starting point for strengthening the role of human rights in DFID's policy and practice**. The distinction must be made between DFID policy in relation to human rights (such as the policy positions described below) and the UK's human rights obligations (described above).

Human Rights Target Strategy Paper

DFID produced a series of Target Strategy Papers setting out how it would meet the commitments established in its 2000 White Paper. The White Paper included a **commitment that DFID would work to enhance the human rights of poor people and encourage the ratification and implementation of human rights obligations through its development programmes and political dialogue**. The 2000 TSP, *Realising Human Rights for Poor People*, subsequently further elaborated the importance of human rights to the achievement of DFID's poverty reduction objectives and, what was then, the International Development Targets (IDTs, which later became the MDGs). The TSP states that poverty reduction can only be achieved through the engagement of poor people in development processes and

establishes that DFID will therefore integrate human rights into its work at all levels in order to implement the policy commitments made in the White Paper.

DFID's interpretation of a human rights-based approach (HRBA) to development is that it means 'empowering people to take their own decisions rather than being the passive objects of choices made on their behalf', with the strategic objective of enabling 'all people to be active citizens with rights, expectations and responsibilities'. The TSP includes a description of the international human rights framework, including the Universal Declaration of Human Rights (UDHR) and the six major legally binding conventions, treaty monitoring bodies, as well as the key international human rights organisations. It also discusses the universal and indivisible nature of economic, social, cultural, civil and political rights encapsulated by the phrase 'all human rights are for all people'. The TSP recommends that a HRBA is implemented using three operational principles: (i) participation; (ii) inclusion; and (iii) fulfilling obligation. Within this interpretation of a HRBA, some human rights principles are prioritised (i.e. participation and inclusion). Human rights standards, as provided for in international law, are grouped together under the 'fulfilling obligation' principle, which also covers accountability and the distinction between rights-holders and duty-bearers (Piron and Watkins, 2004).

Social Exclusion Policy Paper

Equality is a core human rights principle and standard and is present in all the human rights instruments. It is also the focus of ICERD and CEDAW. Discrimination is a violation of this human right. The concept and practice of discrimination is at the heart of the 2005 Policy Paper, *Reducing Poverty by Tackling Social Exclusion*. This defines exclusion as 'a process by which certain groups are systematically disadvantaged because they are discriminated against on the basis of their ethnicity, race, religion, sexual orientation, caste, descent, gender, age, disability, HIV status, migrant status or where they live'. A footnote highlights that the Social Exclusion Policy builds on aspects of the strategy set out in the Human Rights TSP, which uses social inclusion as one of three operational principles. Social exclusion is presented as mattering because 'building socially inclusive societies based on the values of equality and non-discrimination is critical if all people are able to claim their rights' and because 'social exclusion causes poverty and gets in the way of poverty reduction'.

Inclusion and non-discrimination are therefore presented as a means for people to claim their rights and overcome an obstacle to poverty reduction, rather than equality and non-discrimination being a basic human right that states have an obligation to uphold. The direct linkage between the denial of the right to equality/non-discrimination and poverty is therefore not drawn. The policy does recommend that putting in place appropriate legal, regulatory and policy frameworks (e.g. non-discrimination legislation, positive or affirmative action) is a means to: (i) address social exclusion and discrimination in access to economic opportunities, services and the benefits of public expenditure; (ii) promote political participation; and (iii) protect people's rights. It suggests that donors can support programmes in all these areas. **An explicit link to human rights instruments and standards and state obligation is not made in this section.** The section on donor action states that donors can support programmes to strengthen the rights, voice and political representation of excluded groups and increase the accountability of governments. A commitment is also made to commission new research and ensure adequate attention is paid to exclusion, inequality and rights in DFID research on HIV/AIDS, education and other relevant areas.

2006 White Paper

The central theme of the 2006 White Paper, *Eliminating Poverty: Making Governance Work for Poor People*, is that state effectiveness is the most important determinant of successful development and poverty reduction because **effective states protect people's rights and provide security, economic growth and services**. This is based on a multidimensional understanding of poverty and development that requires realising both 'freedoms to' and 'freedoms from'. The White Paper specifies that: 'States that ratify the main human rights treaties on economic, social and cultural, civil and political rights undertake to respect the human rights of everyone living within their jurisdiction; but in many countries, governments could do more to fulfil these obligations ... **We support government in fulfilling their human rights obligations, and strengthening participation and inclusion in their societies. This forms a core part of our governance work.**'

The White Paper **explicitly recognises that the UDHR establishes the right to education, health, social security, food, clothing and shelter**. As well as being human rights, education, health and social protection – along with water and sanitation – are presented as essential public services that are necessary if progress is to be made on the MDGs. This is accompanied by a commitment to dedicate half of the UK's direct support to these public services. The subsection on health also includes references to sexual and reproductive rights and the role of discrimination in preventing access to basic health services, with associated commitments to DFID support to these areas.

There are also several other policy commitments in the White Paper that have relevance to DFID's work on human rights, including: (i) greater priority to work on gender equality and women's rights; (ii) putting good governance at the centre of DFID's work, using the capability, accountability and responsiveness (CAR) framework and working with the 'grassroots' end of governance; (iii) a reiteration of the commitments made in the conditionality paper (i.e. to provide aid based on partner countries progress on three commitments, including human rights); (iv) the promotion of equitable growth; (v), the reform of the UN; (vi) the development and implementation of human rights standards; (vi) investment in the monitoring of human rights and support to media to raise awareness and gather evidence when states fail in their responsibilities;⁶ and (vii) improving property rights, promoting labour standards and eliminating child labour.

Country Governance Analysis

A commitment is also made in the White Paper that DFID will undertake 'quality of governance assessments' in order to 'put comprehensive governance analysis at the heart of the country planning process to better inform our strategies and our decision making'. This has since been operationalised through DFID's Country Governance Analysis (CGA). These are now a **mandatory part of the planning process for all countries required to prepare a Country Assistance Plan (CAP)**. Human rights feature under the 'accountability' category of the CGA, the first systematic analysis of human rights that DFID country offices have undertaken. These are not meant to be used to make decisions about the allocation and disbursement of aid, and are not formally part of the implementation of the Conditionality Policy (which has a separate assessment). Nevertheless, **this analysis can inform the assessment of progress on the three partnership commitments by providing an analysis of long-term governance trends**. The CGA draws on several types of governance indicators, including those relating to human rights, to provide a governance analysis

⁶ It is not clear if this relates only to fragile, conflict and post-conflict states, as it comes in a section specifically on conflict.

that is structured in sub-categories organised according to the CAR framework. **This analysis is intended to inform strategic/programming decisions and political dialogue** (for instance, informing decisions about what issues should be addressed, whether DFID is able to effectively address these, whether other donors are better placed to address them, etc.) (interview). The CGA is intended to be a shared analysis, drawing on existing documents and assessments (both partner governments and others), as well as DFID's existing analytical tools. The CGA should be aligned with national processes and harmonised with other analyses where possible. It is stated that, at a minimum, the CGA should be a consultative process, including the FCO.

Governance and Democratic Politics Policy Paper

The position taken on governance in the White Paper is further elaborated in the 2007 Policy Paper, *Governance, Development and Democratic Politics*. This forwards the argument that effective states are built on good governance. **Good governance requires states to be capable, accountable and responsive**. In this formulation, human rights are central to DFID's understanding of responsiveness, with this being measured by the degree to which government responds to the needs and rights (or claims) of individuals in a fair and non-discriminatory manner. **The promotion of equality and respect for human rights is therefore both an outcome and a measure of the degree to which a state is responsive**. Responsiveness is in turn presented as a measure of the degree to which a state is accountable and capable. **Human rights are also said to underpin accountability** and several critical civil and political rights are highlighted, such as freedom of association, information/transparency, faith and expression, and democratic rights such as the right to vote. Accountability is also defined in terms of the enforceability of sanctions when states do not meet their obligations on the basis of agreed standards.

This paper defines governance as being about 'how citizens, leaders and public institutions relate to each other' and governance analysis as considering 'all the mechanisms, processes, relationships and institutions through which citizens and groups articulate their interests and exercise their rights and obligations'. Improving governance therefore requires 'engagement with both state and citizens', as well as understanding the relationship between them and the intermediaries through which they operate (e.g. media, parliaments, professional organisations, CSOs, etc.) This is discussed in terms of the demand and supply sides of governance, building on the commitment in the White Paper to work with state, citizens and their intermediaries in order to improve governance. The concepts of rights-holders and duty-bearers could equally have been utilised, but were not.

Building on the position taken in the White Paper, **the importance of governance to ensuring the full range of human rights – both 'freedoms from' and 'freedoms to' – is emphasised, as well as the relationship between these and poverty reduction**. For instance, economic and social rights have a role in addressing material deprivation and promoting human development; civil and political rights are required for effective voice and accountability and to empower people to influence decision-making processes; and non-discrimination is needed to protect vulnerable and marginalised groups from the violation of their rights. **'Democratic politics' is presented as the best framework to foster these freedoms**. DFID's understanding of democratic politics is that it is a set of values and principles that recognises individual and collective human rights and freedoms, rather than a specific set of institutions.

2.3 Summary: an enabling environment for human rights promotion

The policies reviewed show that **there has been a clear evolution in DFID's policy environment with respect to human rights, making human rights increasingly relevant.** This evolution relates to the:

- Mandatory and systematic incorporation of human rights considerations into DFID's strategic and programming decisions (as a result of the Conditionality Policy, Country Governance Analysis and, potentially, Human Rights Act).
- Strengthening of the importance of human rights to development and poverty reduction as a result of the position DFID takes on state effectiveness, good governance and democratic politics (presented in the 2006 White Paper and the Governance and Democratic Politics Paper).
- Increased emphasis on the international human rights framework and state obligation, complementing the principles of participation, inclusion and an active citizenry (elements of all the recent policies reviewed).

The Conditionality Policy and Country Governance Analysis signal that human rights must be systematically taken into consideration by country offices. Guidance on the approach that should be taken to supporting the promotion of human rights is provided by other policy documents. The 1997 and 2000 White Papers stress that human rights are important if poor people are to be empowered to participate in and influence the decisions that affect their lives. This position contributed to the HRBA adopted in the Human Rights TSP and the relative emphasis on human rights principles, and particularly those of participation and inclusion, rather than standards. The emphasis on the capacities of individuals as rights-holders (rather than states as duty-bearers) is also reflected in the relative focus on issues such as the empowerment of poor people, their participation in development processes, inclusion and social justice and poor people's own understanding of entitlements (e.g. Participatory Rights Assessment Methodologies). The 2004 Human Rights Review confirmed that this relative emphasis is also reflected in DFID's actual activities (Piron and Watkins, 2004).

The principles of participation and inclusion remain a central element of DFID's work and are retained in recent policy documents, as evidenced by the continuing emphasis on the importance of political participation, addressing social exclusion and discrimination, the protection of poor and marginalised groups and the promotion of equitable development. In the 2006 White Paper and the subsequent Governance Paper, **these elements have also been joined by greater emphasis on the quality of governance, state institutions and democratic politics**, and the way these structure the interaction between state and society. Alongside the commitment in the Conditionality Policy to use partner country commitments to fulfilling their human rights obligations in the assessment of UK aid partnerships, this **leads to greater prominence being given to human rights standards and state obligations for these.**

Bringing together state obligations to fulfil human rights standards with the importance of fostering an active and inclusive citizenry facilitates **a more rounded approach to the promotion of human rights.** This is an approach that recognises both the need to improve the capacity of individuals to claim their rights and the capacities of duty-bearers – the state – to meet their obligations. This approach is consistent with international policy on the promotion of human rights in development cooperation, for instance, the UN Common Understanding on a Human Rights-Based Approach (UNDG, 2003) (see Annex 5) and the OECD DAC Policy Paper on Human Rights and Development (OECD, 2007). This approach also complements DFID's

understanding of governance as relating to the relationship between state and citizen and its commitments to engage with both the 'demand' and 'supply' sides of governance.

At the same time, **there appears to have been a clear move away from a HRBA in DFID discourse towards more explicit language of human rights** (both in general and specific terms), often with at least some reference to the international human rights framework as the source and, in some cases, to state obligation. The term HRBA is completely absent from both the 2006 White Paper and the Governance and Democratic Politics Policy. Nevertheless, as described above, the current policy framework supports a rounded approach to the promotion of human rights that captures the essence of the UN Common Understanding. Such an approach includes measures to promote both the capacities of 'rights-holders' (individuals) and the capacities of 'duty-bearers' (the state) in a way that brings together the perspectives and established work programmes of DFID's social development and governance advisors. This approach can add pragmatic value to the realisation of DFID's existing poverty reduction objectives – for instance, by demonstrating the centrality of the realisation of human rights to better governance. It can also show how DFID's existing portfolio concretely contributes to the realisation of human rights – for instance, the contribution of DFID's work within specific sectors – such as health or education – to the fulfilment of specific economic and social rights. Finally, this approach to human rights enables a more explicit utilisation of international human rights standards as both a means of measuring the quality of governance and a proactive resource for both positive programmatic support and political dialogue. In fact, the Conditionality Policy and the Country Governance Analysis require this.

3. Working with Others: FCO and Human Rights

The FCO is the lead on human rights for the UK government in its external relations and is therefore an important partner for DFID in this area. This section examines the FCO's role and position vis-à-vis human rights, and its strategic priorities in this area. A brief overview will also be given of collaboration between DFID and FCO on human rights, and governance more generally. Examples of collaborative working in relation to specific human rights will be discussed in the relevant subsections in Annex 5.

3.1 UK government commitment to policy coherence

The UK government has made a commitment to enhancing policy coherence across UK government departments. From DFID's perspective, 'policy coherence for development' means that the implications of all government policies for development and poverty reduction need to be considered, including ensuring that these do not have an adverse affect on development in other countries (DFID, 2007e). This will clearly need to be balanced with the understanding of coherence of other UK government departments. However, **the international human rights framework and standards do have the potential to be one source of coherence for UK objectives, domestically and in its external relations.**

3.2 FCO position and role on human rights

FCO's position on human rights

At the heart of any foreign policy must lie a set of fundamental values. For this Government, the values that we promote abroad are those that guide our actions at home. We seek a world in which freedom, justice and opportunity thrive, in which governments are accountable to the people, protect their rights and guarantee their security and basic needs. We do so because these are the values we believe to be right. And because such a world is the best guarantee of the security and prosperity of the people of the United Kingdom. (Jack Straw, then Foreign Secretary, launching the UK International Strategy Priorities, March 2006)

The promotion of human rights is seen as a core part of UK foreign policy. There are two reasons for this: (i) human rights are values that the UK believes are right and upholds for themselves (and therefore must defend); (ii) the UK believes that states that uphold human rights and democratic values are more stable, peaceful and prosperous. This produces a more stable global environment, which both serves the UK's national interests and contributes to the achievement of the UK's other strategic international priorities (FCO, 2006b; FCO HRDGG, 2005). **One of the FCO's main objectives therefore is the promotion of human rights, good governance and democracy through international forums and its bilateral relationships.** The UK supports the view, expressed in Articles 55 and 56 of the UN Charter, that the promotion and protection of all human rights is a legitimate concern of the international community (FCO website: <http://www.fco.gov.uk/>).

The FCO represents the position of the UK government that human rights are universal, indivisible and interdependent and that 'economic growth is only sustainable where civil and political rights are respected. Where they are not respected, such growth is slower, less effective, requires more aid and rarely withstands the shock of political upheaval caused frequently by failure to respect civil and political rights' (<http://www.fco.gov.uk/>). The FCO states that the UK commitment to the Millennium Declaration reaffirms its position that **respect for human rights and fundamental freedoms is essential to the achievement of the MDGs.** It is the FCO's position that the UK Government seeks to apply the standards enshrined in

the international human rights instruments consistently and to give full weight to the ethical dimension when the promotion of human rights in bilateral and multilateral relations is at odds with the promotion of other bilateral interests. It recognises that different approaches are needed depending on the specific circumstances but the **strategy that is adopted is to, where possible, encourage improved standards through dialogue, guidance and support as part of a constructive bilateral relationship based on long-term engagement** (<http://www.fco.gov.uk/>).

The FCO's role

The FCO has the formal lead on human rights in the UK's external (bilateral and multilateral) relations. The FCO is responsible for representing the UK in international forums whenever human rights are publicly or formally examined. The UK has Missions/Delegations to the UN, OSCE, EU and Council of Europe. The FCO's responsibilities vis-à-vis the international human rights system include:⁷

- To contribute to the development of international law and the international system (e.g. UN Special Rapporteurs).
- To protect the integrity of international law as a good body of law that it is in the UK's interest to maintain. The position of the FCO is that it is not in the interest of the UK government to be party to legally binding human rights that cannot be enforced, as this would undermine the integrity of international law.
- To protect the position of the UK by ensuring that the UK does not accept obligations that are incompatible with UK domestic legislation and policy.
- To represent the UK interest in furthering human rights objectives within its bilateral political relations, as well as responding to human rights concerns and issues as they arise. (The human rights issues that are raised in bilateral political dialogue are usually defined by the FCO. Although it has tended not to happen, DFID can also request that the FCO pursues particular human rights concerns, for example, in relation to the Conditionality Policy).

The FCO uses international forums, particularly the UN, to advance both legally binding and political (i.e. non-legally binding, such as human rights declarations) understanding of human rights concepts and human rights implementation around the world. Human rights activities undertaken by the FCO at the UN include (email correspondence with FCO Mission in Geneva):

- Development of international standards, both legal and non-legally binding, such as representing the UK in negotiations of new standards and ensuring that draft texts are consistent with the UK approach to human rights and international law.
- Advancing common understanding of human rights concepts through negotiation and adoption by governments of political statements and texts and using these to try to make progress on human rights implementation (e.g. UK support for international consensus on political text opposing violence against women).
- Using the intergovernmental UN human rights bodies to highlight human rights situations and put public pressure on governments to improve them (e.g. UN resolutions, dialogue with the UN High Commissioner for Human Rights, questions to thematic Special Rapporteurs).
- Working to strengthen the UN system by protecting its independence and trying to institute new measures to reinforce the system (e.g. UK support of the Human Rights Council, UK resolution for new Special Rapporteur on contemporary forms of slavery).

⁷ The international human rights system includes the body of human rights law and international human rights organisations and mechanisms.

- Working to try to ensure that human rights are taken into account in all areas of the UN's work (e.g. to promote interdependence of development, peace and security and human rights).
- Supporting the Office of the UN High Commissioner for Human Rights (e.g. resisting curtailment of its independence or funding).⁸

The FCO's overseas missions (e.g. High Commission and Embassies) have the formal lead on human rights in the UK's bilateral relations. The missions have dedicated human rights personnel with responsibility for tracking human rights violations and assessing the implications of these for the UK's diplomatic relations. This responsibility formally covers all human rights. In practice, the human rights work of the FCO focuses on civil and political rights, for example, EU démarches (formal protest letters) overwhelming concern violations of civil and political rights (interview). Where possible, the UK channels its political dialogue on human rights through the EU and also works closely with the EU at international level on human rights (in the context of the Common Foreign and Security Policy). An example of this includes the FCO's work with EU partners to produce EU guidelines for action on torture, the death penalty, human rights defenders, children and armed conflict.

The FCO has a Human Rights, Democracy and Governance Group (HRDGG) in London which leads work within the UK government on the international human rights institutions and advises desks and posts on the FCO's overall approach to human rights (including advising on bilateral political dialogue) and its human rights priorities areas and thematic issues. This team also coordinates work with the EU and coordinates and supports the UK's human rights objectives in other international organisations (e.g. the UN). The FCO also has six independent expert panels – on torture, freedom of religion, freedom of expression, child rights, the rule of law and the abolition of the death penalty – made up of NGOs, academics and other experts. These panels meet twice a year to provide strategic direction to the FCO's work.

The FCO's lead on human rights in the UK's external relations requires that it consults and works with other departments and advises them on international law. There is therefore a two-way interaction between the FCO and other departments based on the particular expertise of each. In relation to the UK's reporting obligations under the international human rights treaties, the lead government department for the particular issue usually has responsibility for compiling the UK's report and coordinating responses from other government departments as relevant (e.g. Department for Children, Schools and Families has lead responsibility for the CRC). The FCO is responsible for ensuring that the report is physically submitted to the relevant treaty monitoring body on time and for coordinating the UK delegation for the examination by the treaty monitoring body, although the lead on substance remains with the relevant government department. The Ministry of Justice (MoJ) is the lead agency for implementing the UK's domestic human rights obligations and has responsibility for the implementation of the HRA, although individual departments have responsibility for ensuring their own compliance. The MoJ also has responsibility for compiling the UK's 'core reporting document', which is a standard document containing the core information required by the treaty monitoring bodies to prevent the same information being repeatedly compiled.

FCO human rights priorities and strategy

The FCO's 2006 White Paper identifies **nine international priorities** for the UK, later extended to 10 by adding climate change, and **including 'promoting**

⁸ The majority of the UK's voluntary contribution to OHCHR is provided by DFID.

sustainable development and poverty reduction, underpinned by human rights, democracy, good governance and the protection of the environment (Service Priority 7 – SP7). This priority is also reflected in the FCO's PSA 8 and its strategic objectives for the Spending Review Period 2005-8 (FCO, 2006b; 2007; <http://www.fco.gov.uk/>).⁹ **PSA 8 has three performance indicators relating to human rights:** (i) to increase the number of countries that have abolished the death penalty; (ii) to increase the ratifications of the six core human rights treaties; and (iii) to increase ratifications of the optional protocol on the UN Convention Against Torture. These priorities demonstrate that the FCO sees human rights as essential to sustainable development and poverty reduction. The FCO also supports the position taken in DFID's 2006 White Paper that the quality of governance is a key determinant of the possibility of effective development and poverty reduction (FCO, 2006b).

The FCO has a **3-year Strategy (2006-9) for the implementation of SP7**, which updates its work programme on human rights, democracy and good governance to reflect the strategic priorities and commitments made in its 2006 White Paper. This sets out several strategic goals in this area, including **priority themes for human rights, democracy and good governance** (see Box 1), as well as a **commitment to mainstreaming human rights, democracy and good governance**. All FCO desk officers have a responsibility to ensure that human rights are taken into consideration in their particular area. In addition, alongside the particular issues relevant to their theme or country, all individual desks and posts have to focus on three priority human rights themes (combating torture, elimination of the death penalty and child rights).

The FCO also implements its strategy to promote human rights, democracy and good governance through its joint operations with the EU (as well as through support to UN agencies and other international organisations). It appears that this strategy influences the UK's priority areas because, to maximise its influence, the FCO concentrates on areas of concern that it shares with EU partners (e.g. death penalty). The FCO also attends monthly meetings of the European Council Working Group on Human Rights (COHOM) to coordinate EU policy, as well as other working groups on specific themes or geographical areas. In addition, the FCO has the UK lead in relation to the OSCE and the Council of Europe, which both work extensively on human rights and have key human rights functions in Europe.

Another strategy for maximising the effectiveness and influence of the FCO is the **concentration of its efforts on three categories of countries:**

- Countries that fall short of the most basic notions of democracy and commit the most serious human rights violations (Burma, North Korea, Zimbabwe);
- Regions or countries in transition and/or where there are serious human rights challenges or where strategic interventions can make measurable difference (Central Asia, Middle East, Sudan, China, Colombia);
- Countries that have a mostly good record but where there are specific thematic concerns (e.g. death penalty).

Box 1: Strategic goals for promoting human rights, democracy and good governance

- Promote three key human rights themes: (i) combating torture; (ii) abolition of the death penalty; (iii) and child rights.

⁹ Another relevant priority is the promotion of 'an international system based on the rule of law, which is better able to resolve disputes and prevent conflicts', which includes a joint PSA with DFID and MoD in the Spending Review Period 2005-8, to deliver 'improved effectiveness of UK and international support for conflict prevention by addressing long-term violence and support post-conflict reconstruction'.

- Support four key elements of democracy: (i) fair electoral processes; (ii) development of pluralist political systems; (iii) development of effective parliamentary institutions; and (iv) global spread of democracy.
- Support four key elements of good governance: (i) the rule of law; (ii) the participation of civil society in decision making; (iii) promotion of a common approach to governance in international bodies; and (iv) mainstreaming of good governance in development cooperation.
- Further promote the effective mainstreaming of human rights, democracy and good governance issues in the FCO.
- Strengthen the UN system.
- Work with EU partners to ensure Europe makes an effective contribution to human rights, democracy and good governance.
- Help the Overseas Territories fulfil their international human rights obligations and commitments.
- Support partnerships with NGOs, human rights defenders and professional bodies.

As well as human rights strategy, the FCO has other relevant dedicated strategies:

- **Democracy.** Relevant activities planned for 2006-8 include: the production of a democracy toolkit for desks and posts on democracy promotion; engagement with the EU and OSCE to ensure a strategic approach to election observation; strengthening political parties, parliaments, civil society and other institutions of democracy; supporting increased participation by the disenfranchised (e.g. women, minorities, disabled); and the promotion of freedom of expression as a key component of democracy.
- **Good governance/rule of law.** Relevant activities planned for 2006-8 include working with DFID and EU partners to ensure that the promotion of good governance is a core aspect of UK and EU in-country cooperation and development programmes.
- **Sustainable development.** The FCO also has a separate sustainable development strategy and action plan which sets out commitments for 2007-8. The 2006-7 FCO Departmental Report reports on activities such as involvement in the UN SGA High-level Panel on System-wide Coherence as an opportunity to promote views on the MDGs and reducing poverty. However, the focus of the strategy and activities appear to be more geared to environmental governance.

3.3 Working with the FCO

DFID has specific requirements to report on the actions of other government departments that are relevant to development under the 2006 International Development (Reporting and Transparency) Act. However, in its 2006 Departmental Report, there is no information about collaborative work directly related to human rights. One reason could be the incentives created by the PSAs for inter-departmental collaboration: there is no joint FCO-DFID PSA on human rights, although FCO's PSA7 is of direct concern in DFID's work. In contrast, DFID has a common PSA target with the MoD and FCO on conflict and reports in its Departmental Report on the setting up of the Global and African Conflict Prevention Pools, a joint DFID, FCO and MoD mechanism.

The FCO's 2006 Human Rights Report does contain references to joint work with DFID (in fact there are 68 references to DFID in the report). The FCO also anticipates a future driver of cooperation being the UK signing up to the Guidelines for Multinational Enterprises, which commits governments to ensuring that companies registered in their country respect the human rights of those affected by their activities. The UK's contact point is currently the DTI. It is envisaged that

changes planned for later in 2006 will enable the FCO and DFID to play a more active role and provide clearer guidance on how complaints will be handled.

Examples of cooperation between DFID and the FCO have emerged at international, headquarters and country levels. **Cooperation at international and HQ/policy level appears not to be institutionalised** and therefore is largely *ad hoc*, for instance cooperation around specific issues, such as the right to development or water, or interaction in relation to international process e.g. the recent UK report to the Committee on Economic, Social and Cultural Rights, which monitors fulfilment of state obligations under ICESCR and collaboration between DFID and the FCO mission in New York and Geneva to advance the mainstreaming of human rights within the UN development and peace and security work.¹⁰ At country level, the relationship between FCO and DFID varies depending on country context, resources (financial and human) and programmatic focus.

The explicit use of human rights language by ministers for international development and DFID senior staff and the more prominent commitment to human rights in DFID policy, combined with the FCO lead on human rights in UK external relations, is **likely to mean that DFID will work more closely with the FCO at policy and operational levels**. Joint policies, such as the Conditionality Policy, and activities of common interest that require DFID to utilise FCO expertise, such as the CGA, are also drivers of collaborative working. This has already proved to be the case. For example, regular meetings took place between DFID's Policy Division (led by the Effective States Team but also including other teams such as Equity and Rights) and the FCO during the development of the Conditionality Paper, the CGA and the Governance, Development and Democratic Politics Policy.

The CGA has also led to joint DFID-FCO work at country level. It has been reported that these processes have generally been positive (e.g. production of the CGA in Malawi, Mozambique, Sierra Leone) and that these shared analyses have the potential to facilitate complementary programming (interview). However, **some cases have also pointed to possible tensions as a result of the different roles and approach of DFID and the FCO in relation to human rights**. This was particularly the case with respect to the CGA process in Vietnam, a country that is making good progress in the reduction of poverty (which has contributed to progress on the realisation of some economic and social rights), but does not respect several civil and political rights. Given the FCO's responsibilities in relation to the promotion of international human rights standards, as outlined in Section 3.2 above, it took a more absolute position on Vietnam's commitment to human rights, particularly civil and political rights. In contrast, DFID's primary responsibility is the reduction of poverty and therefore it assesses progress on human rights within this context.

3.4 Compatibility of FCO and DFID roles and priorities

The formal responsibilities that the FCO has for promoting human rights in the UK's external relations, including representing the UK in international forums and its bilateral relations, means that **the FCO has a much more clearly defined role and position in relation to human rights than DFID, based on the international human rights system**.

In contrast, **DFID has a less clearly defined role relating to the promotion of human rights in other countries or internationally**, as evidenced by the absence

¹⁰ The picture of joint work between FCO and DFID's sector or thematic teams/advisors within policy on specific human rights is less clear, apart from water. Little about this emerged during interviews.

of human rights and governance from its PSA. However, the Conditionality Policy and 2006 White Paper (which entail specific reporting requirements) show that, at corporate level at least, **human rights are being linked to DFID's core poverty reduction mandate and are therefore increasingly being seen as an important part of DFID's work.** DFID's White Papers:

- All make a commitment to the promotion of human rights through the UK's development cooperation;
- Forward the position that promoting human rights is needed for the fulfilment of DFID's poverty reduction mandate as human rights are central to the ability of poor people to participate in inclusive decision-making processes; and
- Make a clear statement (the latest White Paper) that respect for human rights – both freedoms from and freedoms to – is a key characteristic of the type of state – one based on democratic politics and good governance – that is able to deliver sustainable development and poverty reduction.

This is consistent with the FCO's position, presented as the UK view, that human rights are required for sustainable economic growth and MDG achievement.

Furthermore, the Conditionality Policy and Country Governance Analysis mean that DFID's country offices must now systematically consider partner countries' records on human rights as part of strategic and planning processes. **It is less apparent how these policy positions and requirements will be translated into operational priorities in relation to human rights, and whether the approach taken will be compatible with the FCO's.** The FCO expresses its preference for the promotion of improved human right standards through long-term dialogue and support as part of a constructive bilateral relationship (<http://www.fco.gov.uk/>). This emphasis on positive, long-term support is consistent with DFID's approach, but **it is reasonable to assume that, in the short-term at least, DFID's programmatic objectives will continue to be relatively less focused on the international standards than is the case for the FCO, and this will lead to differences in approach.**

As noted, DFID's collaboration with the FCO in the production of Vietnam's CGA highlighted these differences in role and approach, with the FCO, in principle, upholding human rights standards and their interdependence and DFID assessing progress on human rights in the context of progress on poverty reduction. There is some ambiguity in terms of how this fits within DFID's understanding of the centrality of good governance and democratic politics to development and poverty reduction (e.g., in terms of whether some civil and political rights are seen as a precondition for good governance/democratic politics and therefore for poverty reduction).

There are some obvious areas of consistency between DFID's current priorities and FCO's SP7 priorities, including mainstreaming of good governance (and ensuring that it is mainstreamed in development cooperation), support to parliamentary institutions, and promoting the participation of civil society and marginalised groups. Other FCO priorities – such as child rights – are areas where DFID has activities but tends not, at present, to use a human rights lens. Two of the FCO three human rights priority areas (death penalty and torture) are not issues that DFID prioritises. The countries where the FCO human rights work is focused may also be, in the main, countries where DFID is less active or not present at all (e.g. developed or middle income, transitional countries, worst human rights offenders), although the prioritisation of fragile state in the 2006 White Paper will mean working in countries with more complex human rights issues.

4. DFID Policy on Individual Human Rights

This section reviews DFID policy on eight specific human rights: political participation, health, education, adequate standard of living (including food, housing and water), social protection, women's rights, children's and youth rights, and the right to development.¹¹ A subsection on each human right will summarise the main messages arising from the analysis. Annex 1 offers more detailed information on each right found here. This includes an overview of the relevant human rights standards, a document review, deeper analysis of the use of the human rights framework and standards and information on DFID's work with the FCO and other departments.

4.1 Political participation

Political participation has become an established area of DFID's work because of its perceived importance to the reduction of poverty. It is likely to become even more prominent as a result of recent policy statements on state effectiveness, good governance, democratic politics and social exclusion.

The themes of accountability, responsiveness and democratic politics encompass elements of the right to political participation (ICCPR, Art.25) and provide a platform for discussion of the importance of other human rights.

Although there are frequent reference to human rights in the documents reviewed – including reference to specific human rights – these are not related to specific international human right standards. Discussion of democratic politics is therefore not grounded in recognition of state obligations to protect and promote the human rights that underpin political participation and accountability, as established by international law.

A stronger case can be made for the importance of human rights to poverty reduction (via state effectiveness and good governance) by placing greater emphasis on the realisation of human rights as a precondition for good governance/democratic politics, as well as an important outcome.

Measures that seek to improve the state's willingness and capacity to promote inclusive political participation should complement existing interventions that aim to increase the capacity of marginalised groups to participate, constituting a more balanced approach to political participation.

Political participation, democracy and governance are areas where the FCO and DFID share mutual interests and objectives, providing good entry points for cooperation. The FCO position on democracy is perceived to be more prescriptive or normative than DFID's, which might hamper closer collaboration.

4.2 Health

The MDGs are the primary framework for DFID's policy within the health sector. The right to health is recognised in both the White Paper and the recent Health Policy, although these statements are disconnected from the analysis and approach in the document as a whole, including the use of human rights in relation to specific health themes (maternal health, sexual and reproductive health, and HIV/AIDS).

¹¹ Women's rights, children and youth rights and the right to development were a secondary focus of the study and are therefore reviewed in less detail.

It appears that negative entitlements are more commonly used in the health sector – in particular those relating to gender discrimination and the violation of women’s rights – than the right to health and positive entitlements to specific health services.

Human rights are evident in the health sector but are not well linked to the international human rights instruments and standards. The consequences are threefold:

- (i) the international human rights framework is not used to build a coherent approach to human rights within the health sector;
- (ii) there are few clear statements about state obligations for specific health-related entitlements, and citizens right to hold the state to account for these; and
- (iii) the more detailed provisions within the human rights instruments, which establish the steps required to realise the right to the highest attainable standard of health, are not utilised.

This underutilisation is partly explained by the use of the Human Rights TSP to frame the approach to human rights taken within the health sector. The ‘How To’ on maternal health is a good example of how to provide practical guidance on using the human rights framework.

4.3 Education

The MDGs are the primary framework for DFID’s policy within the education sector. As a result, universal primary education, free primary education and gender equality in education are priority areas for policy and action.

The right to education is recognised in all three documents. The universality of the MDG targets on education creates many potential entry points for discussion of human rights. However, it is only in the UPE TSP that human rights are relatively prominent and their usage more developed.

The use of the human rights framework in the UPE TSP could be improved by:

- (i) More consistent use throughout the document;
- (ii) Utilisation of all relevant instruments e.g. ICESCR as well as CRC;
- (iii) Greater utilisation of the more detailed provisions in relation to the right to education, which would provide an entry point for analysis of contents, quality and the purpose of education; and
- (iv) Further development of the theme of state obligations and accountability for specific entitlements.

Given the MDG focus, the impact of gender discrimination on girls’ access to education, and the potential for education to improve the status of women and support the realisation of other rights, is a recurrent theme. Recognising that gender equality is itself a human right (and discrimination a violation of this right), which is protected by all the main international instruments and is the focus of CEDAW, would strengthen the legal and moral force of discussions about gender discrimination, particular in the Girls’ Education TSP.

4.4 Adequate standard of living

Of the policy documents reviewed, the right to an adequate standard of living is only referred to in the UK Statement on the Human Right to Water. The right to an

adequate standard of living is not used by DFID to connect the issues that this right encompasses (such as food, housing and water). This probably owes to a combination of factors, including the lower profile of this right, the evolution of the use of human rights in DFID and the structure and incentives of DFID's policy team, which do not appear to facilitate joint working on these issues.

The primary policy documents relating to food, housing and water all use human rights. However, these documents demonstrate the variation in the use of, and approach, to human rights within DFID policies:

- The UK Statement on the Human Right to Water is unique in being a cross-departmental document that establishes the UK's legal position on the right to water. The international human rights standards, and state obligations in relation to these, are therefore the starting point for this policy statement.
- The MDGs are the principal framework for DFID policy on food and housing, although the TSPs on Hunger and Urban Development both also use a rights-based approach based on the Human Rights TSP. However, whereas the Hunger TSP makes explicit reference to human rights instrument and standards – including the right to food – the Urban Development TSP has a more generic use of human rights and its principles and does not explicitly refer to human rights in relation to housing and shelter or to the international instruments and the right to adequate housing, as set out in ICESCR General Comment 4.

Taken together, these documents also highlight some inconsistencies. In particular, the White Paper refers to the rights to food, housing and clothing but not to either the right to water or the right to an adequate standard of living, as recognised in the UK Statement on the Right to Water. This is despite water being identified as a priority area for DFID in the White Paper, whereas there is no further analysis or commitments relating to food, housing and clothing. Nevertheless, there are many consistencies with and potential entry points for use of human rights standards in these policies.

There has been intensive collaboration between DFID and the FCO in relation to the human rights to water and food.

4.5 Social security

The right to social security and the right to social protection are both explicitly stated in DFID policy documents. This is a new and important development. These are linked to international human rights instruments and standards, although not to state obligations to fulfil these. More systematic integration of these human rights into DFID policy would be beneficial, particularly drawing out the implications of the right to social security for DFID's analytical and operational work on social protection. Social security is more precisely defined than social protection - both as a concept and as a human right. Consistency in references to these two terms is advisable.

4.6 Women's human rights

Human rights are referred to in the Women's Empowerment TSP but these are mainly generic references with limited linkage to the international human rights framework (instruments, standards and state obligations). Greater utilisation of the international human rights framework, in particular CEDAW, would have enabled DFID to:

- (i) link specific human rights standards relating to gender equality to state obligations for these;

- (ii) emphasise that discrimination is a violation of the right to gender equality and that states have an obligation to promote gender equality and protect women against gender discrimination; and
- (iii) use human rights standards to link gender equality and sectoral issues (such as women's right to equal enjoyment of right to health).

Two potential consequences of not linking DFID's policy on women's empowerment and gender equality more strongly with the international human rights framework are:

- (i) interventions that focus on empowerment will be favoured over those that address state responsibility and action; and
- (ii) the women's empowerment policy will not be consistent with other DFID policies – for instance, the explicit commitments in the 2006 White Paper to work on gender equality *and* women's rights and to put the state and governance at the centre of DFID works – with implications for its ability to provide a clear steer on how gender should be integrated into all DFID activities in accordance with DFID's commitment to mainstream gender equality throughout its work.

4.7 Children's and youth rights

DFID overall policies provide a general commitment to the rights on children and young people (e.g. 2006 White Paper and Human Rights TSP). These are not systematically integrated in relevant policy areas and related documents, nor are they reflected in explicit and specific policy commitments on children's rights. As a result, children's rights are currently not perceived as a priority for DFID.

Children's rights feature in as small selection of DFID policy documents. In most cases, the link to the international human rights framework is weak. Although the Human Rights TSP makes reference to specific issues affecting children, the CRC is only mentioned in relation to inclusion issues, not as a general framework for DFID action. The 2004 paper *Breaking the Cycle* uses the CRC as general framework but it does not constitute DFID policy.

Greater utilisation of the international human rights framework, in particular the CRC, would have enabled DFID to: (i) link specific human rights standards relating to children (and particularly girls) rights to state obligations for these; and (ii) use human rights standards to link children's rights and sectoral issues (including MDG specific sectors) as well as to social inclusion policies. There is scope for greater collaboration with the FCO and UN agencies on children's rights.

4.8 Right to development

DFID's official position on the right to development can be found in the Human Rights TSP. The right to development is not used in other policy documents. The UK position is that there is no internationally legally binding right to development. It is perceived as being a legally flawed concept (e.g. vis-à-vis obligation and enforceability). The UK does not accept that the DRTD gives rise to any legal obligation to provide development assistance and it unlikely that the UK would support the Declaration on the Right to Development (DRTD) becoming a legally binding treaty. There appears to be no clear benefit in DFID investing in developing a position on the right to development and using it to inform policy and guidance. Other mechanisms are likely to be more effective for forwarding debates about human rights and development.

5. Conclusion and Recommendations

5.1 Overview of DFID coverage of human rights

This review has found that **DFID regularly makes explicit reference to human rights in its policy documentation**. This reflects the commitments DFID has made in its three White Papers to integrate human rights into its work, and the use of the Human Rights TSP to implement this commitment in a range of sectors. The majority of these references are to generic human rights but there appears to also be a trend towards the recognition of specific individual human rights as evidenced by the 2006 White Paper.

The review has also found a great deal of **variation in exactly how human rights are incorporated into DFID policy** – and, more specifically, the degree to which the approach to human rights is grounded in the international human rights framework (instruments, standards, state obligations). An important finding of this review is that **increasing reference by DFID to human rights has not been accompanied by increased use of the international human rights framework**.

The UK Statement on the Human Right to Water is an important exception, because it is intended to clarify what the UK believes the human right to water to be and is therefore fully grounded in the international human rights framework.

Are human rights explicitly referred to in DFID sectoral policy?

All the documents reviewed make explicit reference to human rights. Variations exist in two areas. The first is the frequency of references to human rights. The most frequent references are found in the documents applying a rights-based approach and the governance documents. The references to human rights in the other documents reviewed tend to be more isolated or sporadic (e.g. education policies, Social Transfers Practice Paper, health policy).

The second area where variations exist is whether reference is made to generic human rights (e.g. individuals have human rights) or to specific human rights (e.g. individuals have a right to education). Reflecting the approach taken in the Human Rights TSP, the majority of references made to human rights are either generic or relate to human rights principles (e.g. non-discrimination and inclusion). At the same time, specific human rights are increasingly being recognised in DFID policy (e.g. 2006 White Paper, 2007 Health Policy, Statement on the Human Right to Water).

There appears to be a **trend towards human rights being referred to more frequently in DFID documents**. These references are mostly generic, but recognition of specific human rights is also becoming more common.

Any inconsistencies among DFID policies will become more apparent as references to human rights become more specific (i.e. reference to a particular human right rather than to human rights in general). Examples from this review include:

- Recognition of the right to food, housing and clothing in the 2006 White Paper but not the right to an adequate standard of living or the right to water (which are recognised in the UK Statement on the Human Right to Water). The right to housing is not recognised in the Urban Development TSP.
- Consistency of references to the right to social security and the right to social protection (2006 White Paper, Social Transfers Practice Paper).
- References to the right to health in the 2006 White Paper and Health Policy but not in the thematic papers within the health sector (which focus more on

- gender discrimination and violation of women's rights than specific health entitlements, including the right to health).
- The approach to gender equality and women's rights in Women's Empowerment TSP compared with that in 2006 White Paper and relevant sectoral policies (e.g. education and health).

Does DFID sectoral policy link human rights to the international human rights framework?

International human rights law gives force to human rights as legal entities. States that have ratified an international human rights treaty/instrument accept the legal obligation to respect, promote or fulfil the individual human rights (or standards) guaranteed by that treaty. There is therefore a logical progression between: (i) recognition of a specific human right; (ii) recognition of a specific instrument and standard as the legal source of that human right; (iii) recognition of the state obligation in relation to that right; and (iv) state accountability for the provision of specific entitlements and standards against which citizens to seek redress when these are not met.

An international human rights system has developed within the UN to administer international human rights law, including committees of independent experts that monitor states' fulfilment of treaty obligations and Special Rapporteurs on particular themes (e.g. right to health). These bodies – and the documents that they generate – are a positive resource for donors in supporting states to fulfil their human rights obligations (e.g. treaty monitoring reports, Special Rapporteur thematic or country reports, General Comments¹², etc.)

An important finding of this review is the **underutilisation of the international human rights framework** (including its instruments, standards, obligations and resources). Human rights are often referred to without any linkage to the international human rights framework. Where the source of a specific human right is identified, this tends to be either: (i) a reference to the UDHR rather than to the relevant legally binding treaty (ICCPR, ICESCR, CEDAW, CRC, ICERD). The apparent reluctance to use the most pertinent (and useful) instrument is notable – for instance, the scant reference to CEDAW in the Women's Empowerment TSP, or the absence of reference to ICESCR in the UPE TSP; or (ii) an isolated box or footnote identifying the relevant instruments/standards but disconnected from the primary analysis and policy measures within the document (e.g. Social Transfers Practice Paper).

Not linking specific human rights to legally binding instruments and standards has three consequences:

- (i) The recognition of **specific human rights in DFID policy is not linked to recognition that these entail obligations for the state** as party to a human rights treaty and primary duty-bearer. The recognition of an entitlement is considerably weakened if it is disconnected from the corresponding responsibility the state has to respect, promote, protect and fulfil the right. The value of specific rights for individuals is that they can hold public authorities to account and seek redress if they fail to carry out their duties. In the documents reviewed, references to state obligation and duty are minimal, including in the more recent documents that relate specifically to governance and the state. As with discussion of standards and instruments, the

¹² General Comments on thematic issues are published by the UN human rights treaty bodies (i.e. Committees of independent experts that monitor implementation of the international human rights treaties) to provide interpretation of the content of human rights standards.

references to state obligation tend to be isolated statements. More could be done to construct a coherent argument that connects human rights to standards to legal obligation to accountability for these specific entitlements. The UK Statement on the Human Right to Water provides a good example of how this can be done.

- (ii) The **importance of domestic legal provisions is not emphasised**. The international human rights treaties require states to ensure that standards are given force in domestic frameworks (e.g. constitutions, laws, policies), which strengthens their enforceability. There are a few references to the importance of domestic legal frameworks but, apart from the Human Rights TSP, these tend to be in relation to codifying rights to equality/non-discrimination rather than to positive entitlements (i.e. to a particular service). The sectoral policies stress the importance of governance issues, such as holding the state to account, to the achievement of sectoral objectives/MDGs. The codification of entitlements allows specification of the standards that the state is being held accountable for. Human rights standards and their translation into national frameworks therefore provide a sound basis for concrete positive entitlements for citizens to mobilise around and demand accountability from the state.
- (iii) The **human rights standards are not well covered in DFID policy**. The following observations can be made:
- Recognition of specific human rights takes the form of a statement that there is a 'right to x' and, in almost all cases, **there is no discussion of the content of the right as described in the related provisions and standards**. The UPE TSP is a positive example of discussion of the content of a specific right (e.g. stating that the right to education entails an obligation for state parties to provide good quality education and to make primary education compulsory and free for all).
 - DFID appears **more comfortable with recognising negative rights than positive entitlements** (i.e. freedoms from state interference rather than freedoms to specific entitlements/services). For instance, non-discrimination or non-interference in relation to women's ability to access services (such as sexual and reproductive health services, maternal health services, equality in access to education, etc.) is much more prominent in the sectoral policies than discussion of the positive entitlements to specific services.
 - **DFID could better utilise the international human rights framework as a constructive resource**. The international human rights framework provides guidance on the more specific actions required by government to fulfil their treaty obligations. It can therefore also help DFID move from recognition of a specific right to the types of *policy measures* that can positively support governments to fulfil their obligations. For example, the right to maternal health entails the right to specific types of services (access to hospital facilities and to family planning services). DFID policy and guidance relating to specific vulnerable groups (i.e. women and children) have the opportunity to draw on a specific instrument directed at them (e.g. CEDAW, CRC). Other resources include thematic reports by Special Rapporteurs and General Comments, which outline expert interpretation of the content of specific human rights and the steps needed to implement them. The UK Statement on the Human Right to Water and the 'How to Reduce Maternal Deaths' are positive examples of utilisation of the international human rights framework.

5.2 Possible drivers of DFID's human rights policy and guidance

UK legal human rights obligations

To what extent do or should the UK's legal human rights obligations drive DFID's human rights policy?¹³

The UK ratification of the six core international human rights treaties is a strong statement of commitment to human rights and entails specific obligations for the UK in relation to the rights of individuals within their jurisdiction. Ratification of these treaties does not imply that the UK – and therefore DFID – has obligations in relation to individuals living within the jurisdiction of other countries. This means that the UK is not *legally* obliged to provide development assistance or to respect and promote the human rights of individuals living in other countries. This also means that individuals living in other countries cannot hold the UK to account for violating their human rights under the six core human rights treaties. **The UK's international legal obligations are not therefore a clear driver of DFID human rights policy.**

The Human Rights Act has clear legal implications for the UK – and therefore for all UK government departments – in relation to those living within the UK's jurisdiction. The Human Rights Act does not change the nature of the UK's obligations in relation to the rights that the HRA covers (mainly civil and political, with the exception of the right to education), which are already established by international law. The main differences between the HRA and international instruments are the mechanism for enforcement and the ability of individuals to use UK courts to bring claims in relation to violations of rights established by the HRA. In practice, this makes the enforceability of claims under the HRA stronger than those established by international instruments and standards. This is particularly the case for those instruments, such as the ICESCR, where individual petition to the relevant international committee is not possible.

However, **the implications of the HRA for DFID are less clear** for a number of reasons. DFID remit mostly relates to those living outside the UK's jurisdiction. There is therefore extremely minimal risk of a legal claim being bought against DFID on the basis of the HRA/ECHR. This has been further reinforced by the Court of Appeal ruling (2005) and House of Lords judgement on the *Al Skeini* case (2007), which ruled that jurisdiction is essentially territorial and extraterritorial application is extremely limited i.e. to circumstances where the UK exercises effective control over a territory or authority over an individual (e.g. in UK detention centres). As a UK government department, the HRA therefore does entail obligations for DFID to act compatibly with HRA rights but this only applies to acts within the UK and within limited extraterritorial exceptions.

The HRA Guidance Note states that DFID should assess all its decisions and activities to determine whether they risk infringing a HRA right (and the guidance note outlines steps to do this). This raises three issues:

- The level of expertise that DFID staff would require to execute this requirement, given the question of the difficulty of such legal judgements (as well as the need for this to be a mandatory requirement if it is to take place systematically).
- The specific rights with which DFID must ensure compatibility. The HRA establishes legal obligations with respect to a limited set of, mainly civil and political, rights. Presumably, therefore, there is no legal obligation for DFID to

¹³ These comments are ones of interpretation and opinion, with the intention of raising potential issues. They are not based on legal expertise or advice, which should be sought for further clarification.

act compatibly with those rights that are not covered by the HRA, mainly economic and social rights.

- The exact meaning of ‘ensuring compatibility’, as this determines how extensive an impact this requirement could have on DFID policy and practice.

More convincing as a driver of DFID’s future human rights policy is the requirement under the HRA Action Plan that all UK government departments build a culture of respect for human rights. This presents less of a capacity issue for DFID because it requires a different level of understanding of the international human rights framework, implying raising awareness of the international treaties and state obligations that arise from these, establishing common principles and working to ensure consistency with these, but not requiring the legal expertise needed to make assessments of potential violations or infringements. However, building a culture of respect for human rights is less a concrete concept than a legal obligation and therefore bringing about a change in culture within DFID requires senior management commitment, as well as resources (e.g. for training).

DFID’s policy environment

There is a need to distinguish between the UK legal obligations (which may form the basis for UK policy) and other political or policy positions relating to human rights that the UK or DFID chooses to take (and, in some cases, that make certain process or actions mandatory for DFID staff). Section 2.3 suggests that there has been a **clear evolution in DFID’s overarching or strategic policy environment as it relates to human rights**. This has resulted in:

- A mandatory requirement for DFID country offices to **systematically incorporate human rights considerations into their strategic and planning processes** and decisions (as a result of the requirements of the Conditionality Policy, CGA and, potentially, the HRA).
- **Strengthening of the linkage between human rights and poverty reduction** based on the position that DFID has taken on the importance of good governance and democratic politics (2006 White Paper, Governance and Democratic Politics Paper). This adds to the more established position that human rights are important because poverty reduction requires addressing all dimensions of poverty (e.g. including non-material elements such as lack of power, freedoms to as well as freedoms from, etc.)
- **A more rounded approach to human rights promotion** in which the established concern with promoting participation, inclusion and an active citizenry is joined by greater emphasis on the role and nature of the state, including its obligations vis-à-vis the international human rights framework (2006 White Paper, Governance and Democratic Politics Paper).

The (mandatory) **Conditionality Policy and Country Governance Analysis are perhaps the strongest drivers of a more systematic consideration of human rights within DFID**. The accompanying guidance will determine the impact of these recent policies/instruments and the approach to human rights that they support.

Collaboration with the FCO and the coherence agenda

DFID’s formal commitment to greater policy coherence for development (2007e) is a potential driver of increased collaboration and policy coherence between DFID and the FCO, including on human rights issues. Increased contact between the two departments is also likely to result from the increased prominence of human rights in DFID’s policy and high-level ministerial statements. Areas of compatibility and common interest between the DFID and FCO are suggested by this study, as well as

potential tensions arising from differences in objectives and approaches in relation to human rights (and more generally).

Areas of potential tension include:

- DFID's mandate is to contribute to poverty reduction and achievement of the MDGs. This is the primary framework that DFID uses in its policy, including in relation to human rights. The FCO's policy and approach to human rights is firmly grounded in international legal standards.
- The FCO has a responsibility to protect the integrity of the body of international law, as well as UK interests, and therefore needs to ensure that explicit positions taken on human rights are consistent with both international and domestic law. The UK Statement on the Right to Water demonstrates that developing joint positions with the FCO is a protracted process.
- A more legalistic approach to human rights may limit policy options (e.g. this contributed to the UK's reluctance to recognise a right to food, rather than a right to access to food).
- There are serious capacity and resource issues if DFID takes a more legalistic route.
- The FCO concentrates its time and resources on the promotion of civil and political rights. The FCO has, however, expressed the desire to enable DFID to make more effective use of the international human rights framework to promote economic and social rights (email correspondence).
- There is little evidence that a more legalistic approach will have a concrete impact for DFID's work, particularly at the programme level.

Areas of compatibility and common interest include:

- Shared recognition of the importance of human rights to sustainable development, poverty reduction and progress on the MDGs.
- Shared commitment to the promotion of human rights through dialogue and programming.
- Shared commitment to supporting developing countries to fulfil their human rights obligations through positive engagement and long-term partnerships.
- Common priorities, for instance democracy and good governance and work around PSA7 more generally. Other potential common priorities include child rights.
- DFID has significant human and financial resources and could therefore provide support to the FCO in relation to some of its human rights objectives. This is particular the case in relation to in-country activities (though the legal capacity issues are noted above).

It has not been possible to review the consistency of the DFID and FCO position on specific human rights because the FCO does not have policy documents relating to specific human rights. To the degree that the international human rights instruments – and the HRA in the case of some, mainly civil and political, rights – represents the UK government's official position on these human rights, then the issue of coherence with the FCO becomes one of DFID's coverage of the standards (which, as indicated in the analysis, is not comprehensive).¹⁴

The situation is probably not this straightforward in relation to economic and social rights. The FCO promotes the ratification of both the ICCPR and the ICESCR (as well as other treaties), but it is not entirely clear to what degree the UK government

¹⁴ The UK statement on the Human Right to Water is an exception to this required by the absence of specific reference to the right to water in the ICESCR.

accepts the ICESCR standards as legal obligations and the relationship of these to UK domestic law and policy. This is suggested by: (i) the FCO 2006 Human Rights Report indicating that there was ongoing work on whether the ICESCR standards were susceptible to judicial or administrative remedy in the UK; (ii) the qualification of the right to education in the HRA; (iii) the position that the UK has taken on the EU Charter of Fundamental Rights (i.e. to opt out); and (iv) the UK position on an optional protocol (which would allow for individual petition of the Committee on Economic, Social and Cultural Rights) for the ICESCR based on the debate as to whether these rights are actually justiciable because of the 'broad nature of the covenant and the fact that parties are required to progressively realise obligations' (FCO 2006 Human Rights Report).

Ad hoc drivers

Finally, it is important to note the *ad hoc* drivers of policy. In those instances where DFID had moved to explicitly recognise specific human rights or integrate human rights more fully in its approach to a particular sector/issue, discussions with advisors highlighted the importance of the NGO lobby, champions (e.g. Secretary of State) and idiosyncratic incentives (e.g. to raise the profile of a particular area of DFID's work).

5.3 Recommendations: Promising entry points for strengthening human rights policy and practice

There are two key findings of this scoping study:

- (i) The **overarching or strategic policy framework for DFID has evolved** in such a way as to provide an enabling environment for the more systematic integration of human rights into DFID's policy and practice, based on a more rounded approach to the promotion of human rights. This finding is based on high-level and mandatory policy that promotes an approach that supports the capacity of individuals to claim their rights *and* the state to fulfil its international human rights obligations.
- (ii) Human rights are a regular feature of DFID sectoral policy but are mostly references to generic human rights or human rights principles (in particular discrimination and participation). There are **references to specific human rights**, and these appear to be increasing, but these **are usually isolated and are not well linked to the international human rights framework** (instruments, standards, state obligations). This finding is based on a comprehensive review of DFID policy in relation to eight human rights.

There is, therefore, both an **opportunity and a need to provide better guidance** to policy and country teams on how to integrate a more rounded approach to human rights promotion into their work.

However, the policy review and discussions with DFID advisors also suggests that, for country teams in particular, there is policy fatigue and a desire for greater guidance on how policies fit together. This would suggest that practical guidance is likely to be more effective than new policies. In addition, guidance should facilitate understanding of the implications of DFID's policy portfolio as a whole for human rights promotion and how this can be coherently implemented.

Moreover, there are continuing reservations about the relationship between human rights and poverty reduction, as well as uncertainty about how human rights

promotion – particularly an approach that gives equal weight to the international human rights framework and state obligations – can be implemented in practice. This would suggest that efforts should be made to generate better evidence about how the realisation of human rights – and, where possible, programmes that promote this – has practically contributed to poverty reduction. It would also suggest that **the most effective strategy would be a selective one based on those entry points with most traction**, beginning with areas where:

- DFID already has considerable experience;
- It is easiest to strengthen the linkage with the international human rights framework (because of the proximity of existing work to this) and with good effect; and
- Policy, evidence or experience suggests there is a strong relationship between human rights and poverty reduction.

A twin-track approach to supporting policy and country teams to implement a more rounded approach to human rights promotion is therefore recommended. This twin-track approach would seek to provide **clarification** of current (UK and DFID) policy in relation to human rights; and support the **effective and coherent implementation** of this policy.

Clarification of policy

In providing clarification of current (UK and DFID) policy in relation to human rights (position, approach, priorities, mandatory requirements), there is a particular need to:

- Conduct further research looking specifically at the position of the UK vis-à-vis human rights and government coherence on human rights (including the FCO but also other key departments e.g. DCLG, DEFRA).
- Further clarify what the UK's international legal obligations and the HRA mean for DFID human rights policy and practice based on appropriate legal advice.
- Clarify what UK and DFID policy as a whole means for DFID's position on human rights (including its relationship to poverty reduction) *and* what this means for DFID's approach to the promotion of human rights (including what is new about this approach). A clear and consistent message is important.
- Assess the implications this has for the suitability of the current Human Rights TSP as a guide to how DFID fulfils its commitments to integrate human rights into its work and the importance of this to its poverty reduction objectives.

Implementation of policy

Support for effective/coherent implementation of human rights policy should occur in the following strategic areas:

- Promote greater understanding of and familiarity with the international human rights framework and state obligations, including how this relates to activities to support individuals to claim their rights (e.g. empowerment, participation and inclusion activities). This will enable DFID to use the international framework as a constructive resource that can help provide greater coherence to its human rights policy.
- Provide practical guidance to country offices about how they can implement the mandatory policy requirements (with respect to human rights) arising from

the Conditionality Policy, Country Governance Analysis and the 2006 White Paper. For instance,

- Guidance to provide further clarification on the implementation of the Conditionality Policy (e.g. as a supplement to the Conditionality 'How To' Note), covering issues such as: type of conditions that might be attached to country programmes in relation to human rights; how progress on human rights will be weighed against the other two partnership commitments; what would constitute a significant violation of the commitment to human rights (e.g. whether this mainly relates to civil and political rights); implications of the UK endeavouring to ensure that its own policies do not impede ability of states to fulfil their human rights obligations; and implications of 'shared responsibility' for human rights in terms of the compatibility of policy instruments intended to promote poverty reduction and those to promote human rights realisation.
 - The Conditionality Policy and CGA both require that country offices are provided with tools to assess a country's human rights record and benchmark/measure a state's progress in their fulfilment of their human rights commitments. These are two distinct activities and it must be recognised that the second is particularly challenging, particularly in relation to economic and social rights.
 - Support to country offices in moving from the CGA to strategic decisions about whether and how to assist partner governments in making progress in relation to their human rights commitments, through both positive programmatic support and political dialogue.
- Identify strategic areas (based on the three criteria above) to focus efforts to support policy implementation. Demonstrating the importance and practical value of human rights in these strategic areas, where possible through collaboration with country offices and existing programmes, should create greater human rights buy-in within DFID and provide a basis for work in more contested areas. Two strategic areas in particular emerge from this study:
 - *Human rights, equality and non-discrimination* are perhaps the most ubiquitous in the international human rights framework (a feature of all instruments and the focus of CEDAW and ICERD). They are also common themes in all the policy documents, partly since there seems to be some consensus that exclusion and discrimination are major causes of poverty. It could be argued that equality and non-discrimination are particularly relevant in relation to economic and social rights in developing countries as they establish the state's obligation to ensure equitable access to public services (i.e. service provision may be weak relative to more developed countries but it should still be equitable). As such, there are clear gains to be made from strengthening linkages with the international human rights framework and from communicating, what DFID is already doing to fulfil these rights. Women's rights and gender equality should be a priority here, because of their status within the MDGs and DFID's work, the 2006 White Paper and the 2006 Equality Act, and the underutilisation of the international human right framework in the Women's Empowerment TSP (and the Girls' Education TSP, for example).
 - *Human rights, good governance and democratic politics*: The 2006 White Paper provides an important entry point for demonstrating the importance of human rights to poverty reduction. Good governance and democratic politics lead to the realisation of human rights, but are not possible without respect for human rights, particularly civil and political rights. In addition, accountability has emerged as a priority theme for DFID and human rights

can be used to emphasise that the state has obligations for specific entitlements that they should be held accountable for. Human rights standards can therefore be used to link the governance agenda and sectoral work (e.g. emphasising accountability in relation to specific entitlements, use of more detailed provisions to guide actions needed to fulfil obligations). Rule of law and access to justice, an established DFID area of work, are of particular relevance, given that they help citizens claim their rights through domestic judicial and quasi-judicial processes. Human rights can also be used as a vehicle to discuss issues such as the importance of specific entitlements to the social contract between state-society and taxation.

A rounded approach to human rights can bring together traditional concerns of both social development and governance advisors and make real DFID's commitment to work on both the 'demand' and 'supply' sides of governance. For DFID in this area, there is senior management commitment, considerable experience and capacity, demand from country offices and an opportunity to use human rights to show the relationship between different policies. Finally, collaboration and policy coherence with the FCO is potentially less challenging, because civil and political rights are less contested and because DFID and FCO have common priorities.

- Where possible, build on and integrate with other forms of assessments and guidance to avoid further proliferation. For instance, it is likely to be confusing for country offices to be asked to conduct a CGA, gender and social exclusion assessment and a human rights assessment. Given their workload, it is also likely that many will not undertake those that are not mandatory. In this instance, a more fruitful approach may be to work with the teams responsible for the CGA and Conditionality Policy to strengthen its human rights analysis and guidance, and to offer support to country offices trying to put the guidance into practice.
- Where possible, adopt a bottom-up approach of working collaboratively with interested country offices to generate evidence and practical guidance that can be shared with other country teams. Collaboration with other agencies at country level is also desirable.
- Finally, it is important to recognise that integrating human rights – particularly an approach embedded in the international human rights standards – into DFID policy and practice is not simply a question of clarification, guidance or even evidence regarding the practical value of human rights. It is also a question of culture and values. Domestically, the UK does not have a strong human rights culture (legal protection of human rights in domestic law, as evidenced by the HRA – the first of its kind – only came into force in 2000) and this has implications for the culture of its public authorities and for general understanding of human rights. The HRA requirement that all public authorities build a culture of respect for human rights will therefore necessarily be an incremental and long-term process.

Annex 1: Detailed Review of Eight Human Rights in DFID

This annex supplements Section 4, reviewing DFID policy on eight specific human rights: political participation, health, education, adequate standard of living (including food, housing and water), social protection, women's rights, children's and youth rights, and the right to development. It does this by:

- Identifying relevant human rights standards based on the UDHR, which was unilaterally ratified by the United Nations General Assembly in 1948 and is regarded as common international law, and the six core human rights treaties;
- Reviewing relevant DFID documents to identify explicit (i) language of human rights and state obligations, and (ii) linkage of these with the international human rights framework (treaties, standards and other mechanisms).¹⁵
- Discussing DFID's coverage of the human right, the strengths of its approach and any gaps or anomalies (within the sector and in relation to others).
- Indicating areas of policy coherence and collaboration with the FCO.¹⁶

Political participation

Relevant human rights standards

UDHR Article 21

- (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- (2) Everyone has the right of equal access to public service in his country.
- (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

ICCPR Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.

ICCPR Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Document review

The 2006 White Paper, *Eliminating Poverty: Making Governance Work for Poor People*, sets out how the UK government will deliver on the promises it made at the 2005 G8 Summit. The overarching theme of the White Paper is governance, both global and national. In relation to national governance, the key message is that: (i) 'whether states are effective or not ... is the single most important factor that determines whether successful development takes place', and (ii) state effectiveness

¹⁵ The document review was supplemented by an interview with the appropriate DFID advisor and information from these interviews is included as relevant.

¹⁶ This discussion of collaboration is based on the interview with the relevant DFID advisor and a group interview with FCO advisors from HRDGG (a more general discussion of coherence as a driver of work on human rights within DFID and with the FCO will be provided in the concluding section).

requires good governance, which is described in terms of the framework of state capability, accountability and responsiveness (p.8). The principal chapter on governance and state effectiveness opens by making reference to the 'aspirations enshrined in the UDHR and Millennium Declaration' (p.52). Democracy and elections are presented as elements of good governance and there are direct references to rights being an element of responsiveness (whether government upholds the rights of citizens) and accountability (in particular the opportunity to change leaders by democratic means).

The 2007 Policy Paper, ***Governance, Development and Democratic Politics***, expands on the central message of the White Paper about governance and effective states and elaborates what these policy commitments mean for DFID. The relationship between human rights standards and state obligation is explicitly stated: 'States that ratify the main human rights treaties on economic, social, cultural, civil and political rights undertake to respect the human rights of everyone living within their jurisdiction' (p.31). The right to political participation is only specifically referred to once (as an example of a human right that is critical to poverty reduction); however, human rights are consistently referred to regarding the core themes of accountability, responsiveness and democratic politics. This includes the recognition that accountability is only possible 'where there is respect for civil and political rights, including transparency and access to information' (p.16).¹⁷ In addition, non-discrimination, equitable provision of rights and services and the opportunity to participate are presented as integral elements of responsiveness. The need to address gender inequality is also frequently mentioned.

The paper also elaborates on DFID's understanding of democratic politics, which relate directly to elements of Article 25 of the ICCPR and other rights fundamental to the realisation of the right to participate in public affairs and democratic politics. Democratic politics – couched in terms of both 'freedoms to' and 'freedoms from' – are presented as a 'set of values that recognise individual and collective human rights and freedoms' (p.19), rather than a specific set of institutions. They require:

- A system where government decisions over policy are vested in elected representatives.
- Free, fair and frequent election of these representatives.
- Freedom of expression: where citizens have rights to express their voice.
- Access to alternative sources of information e.g. a free media.
- Freedom of association e.g. where citizens have rights to form and join independent associations for participation in organising and influencing state policy and practice.
- Inclusive citizenship where no one is excluded or discriminated against.

These underlying components of democratic politics correspond to specific civil and political rights but are not explicitly presented in the paper as human rights which are rooted in human rights standards and which states have an obligation to fulfil. There is also a specific section on 'Realising Rights and Freedoms', presented as one of six outcomes of state effectiveness that positively contribute to economic and social development. It is argued that effective states promote, realise and protect human rights, empower their citizenry and protect them from abuse of their human rights. It is said that DFID 'support governments in fulfilling their human rights obligations, and strengthening participation and inclusion in their societies. This forms a core part of our governance work' (p.31).

¹⁷ UN Special Rapporteurs are also highlighted as an example of a body that is 'crucial for encouraging governments to meet their human rights obligations' (p.32).

The 2001 TSP, *Making Government Work for Poor People*, outlines DFID's strategy for addressing poverty and meeting the IDTs based on seven core 'capabilities'.¹⁸ This document also refers to human rights throughout in terms of their role in strengthening governance, including the most explicit discussion of – mainly civil and political – rights. One of the seven key governance capabilities outlined is consistent with the concept of the right to political participation, that is: 'to operate political systems which provide opportunities for all people ... to organise and influence state policy and practice'. This section states that: 'Human rights conventions affirm that all people are entitled to participation in government, either directly or through freely chosen representatives' and that 'This right is supported by the fundamental freedoms of speech and association, and equal and universal suffrage in periodic and genuine elections' (p.11). The UDHR is given as the source of these rights.¹⁹ Although the discussion in the TSP highlights the importance of these rights and freedoms (to better governance and state capability to meet the IDTs), it does not root this discussion in the international human rights treaties and therefore specific state obligations.

Analysis of the use of the human rights framework and standards

The international human rights instruments do not include a 'right to political participation' as such. Rather, Article 25 of the ICCPR (and Article 21 of the UDHR) establish that state parties have a legal obligation to guarantee rights that provide the basis for citizens to participate in public affairs, both directly (e.g. through employment in public service) and through representatives, whom citizens have the opportunity to elect at genuine periodic elections on the basis of universal and equal suffrage and secret ballot. Combined with Article 2 of the ICCPR, this establishes that political participation must be inclusive and that the state has obligation to ensure that the right is realised for all and is not subject to discrimination. Further, the ability of individuals to exercise the rights established by Article 25 is dependent on the realisation of other human rights, such as the right to freedom of expression, association and information. This is a concrete **demonstration of the importance of the principle of the indivisibility and interdependence of human rights.**

The promotion of greater and more inclusive participation is an important theme and focus of activities in many areas of DFID's work, because of its position that the following are central to reducing poverty:

- Improving equitable access to goods, services, opportunities and rights for marginalised and vulnerable people.
- Increasing the ability of poor people to participate in decision-making process, and development processes more generally.²⁰
- Increasing voice and accountability as part of a multidimensional understanding of poverty that includes lack of power, influence and redress as well as the absence of material assets.

Democratic politics and political participation are consistent themes in the three governance-related documents, demonstrating the evolution of DFID's thinking here, in particular the increased focus on the themes of accountability, responsiveness and democratic politics. As argued in Section 2.3, this facilitates a more balanced approach to political participation that brings together measures to increase the

¹⁸ TSPs are not officially policy documents but do outline DFID's strategy for meeting the policy commitments established by the 2000 White Paper.

¹⁹ The same footnote also indicates that DFID's approach to promoting human rights is provided in the Human Rights TSP.

²⁰ It is this position that underpins the approach taken in the Human Rights TSP, i.e. the interpretation of a HRBA as empowering people to enable them to influence decisions that affect their lives, hence the emphasis on human rights principles, in particular inclusion and participation.

participation of marginalised groups (as rights-holders) with those that recognise the role of the state (as duty-bearer) in facilitating or constraining political participation.

Themes such as accountability, responsiveness and democratic politics clearly encompass elements of Article 25 of the ICCPR. They also provide a platform for discussion of the importance of other – mainly civil and political – rights to the ability of individuals to participate in political and policy processes, and the importance of political participation to their ability to hold the state to account.²¹ This is particularly the case in the 2007 Governance and Democratic Politics Paper. However, although human rights are frequently referred to – and in the 2007 document also state obligation – this is not explicitly or clearly related to specific human rights standards (apart from generic references to human rights instruments).²²

Human rights are therefore a prominent theme, but the treatment of them is not grounded in an explicit recognition of state obligations for specific standards. This is a missed opportunity, for example, in terms of:

- Strengthening the legitimacy of statements about political participation and democracy, for instance by highlighting that this legitimacy emanates from the fact that states freely sign up to internationally agreed treaties and therefore have a legal duty to fulfil the standards/rights these treaties give rise to and ensure that they are codified in national constitutions.
- Highlighting the role of entitlements within the social contract between state and citizen, for instance that human rights constitute a set of entitlements that citizens (rights-holders) can claim from the state (duty-bearer) and can hold them to account if they do not fulfil their obligations to uphold such rights.
- Related to this, strengthening arguments about the role of accountability in the state-citizen relationship, for instance by identifying specific standards that states are accountable for and the source of these in international human rights treaties.

The discussion of governance and democratic politics also does not capitalise on the opportunity to stress that the realisation of rights is not only more likely in states that are capable, democratic, accountable and responsive but that these characteristics (in particular the latter three) are in the main *not possible without respect for human rights*. Doing so would enable a more coherent argument to be made about the importance of human rights to development outcomes, including poverty reduction (i.e. the arguments that governance is central to development and that human rights underpin good governance). The 2007 document, where the arguments about democratic politics and good governance are most developed, also does not explicitly discuss either the interdependence of human rights or the importance of economic and social rights to meaningful democratic participation.

²¹ In fact, human rights language and use of the international framework is more prominent and consistent (in terms of use in each of the documents) within these documents than in the other sectors/rights reviewed, with the exception of the UK statement on the Human Right to Water.

²² As noted, only the 2001 Governance TSP specifically states that the international conventions establish the right to take part in the conduct of public affairs but even this document does not refer to specific standards. One reason for this is that the 2006 White Paper and 2007 Governance and Democratic Politics Paper are not intended for a specialist audience and therefore avoid overly technical language. They also provide an umbrella for a set of ideas and therefore do not provide scope for specific discussion of political participation (interview). In comparison, the Governance TSP is intended for use by Governance Advisors (including being used to establish core competencies, for induction purposes, etc.) and therefore provides the scope for more technical language. Also note that the Human Rights TSP is still being used and is supplemented rather than superseded by the recent governance paper (interview).

Working with the FCO and others

Governance generally, and political participation and democracy specifically, are areas where DFID and the FCO have mutual interests and objectives, providing good entry points for cooperation. As a result of the 2006 White Paper, and the commitment to put governance at the heart of DFID's work, a good deal of DFID's policy work over the past year has focused on issues relating to governance. The promotion of human rights, good governance and democracy is part of the FCO public service agreement and it is currently working on policy and guidance documents in this area e.g. a democracy policy. There are also clear commonalities in the FCO priority themes in this area (e.g. development of pluralist political systems and effective parliamentary institutions) and DFID's concerns. In practical terms, the human rights work of the FCO is effectively concentrated on civil and political rights, including in-country, and this is also an area where DFID has capacity because of its relatively large governance cadre.

There are apparent differences in the FCO and DFID's conception of democracy/democratic politics. DFID's official position is that democratic politics are the best means of achieving various things, including the realisation of rights, but that democratic politics are grounded in a set of values and principles rather relating to a specific set of institutions (DFID, 2007b). The speech given by Ian McCartney (FCO) at the launch of the DFID's *Governance, Democratic Politics and Development* paper suggested that the FCO position is more explicitly normative and prescriptive (e.g. in relation to human rights standards and state obligations) and includes a clearer equation of good governance with democracy (interview).

The FCO is the official lead on civil and political rights in UK external relations and it was suggested that the FCO is active in this area at the level of in-country work, particularly around elections. DFID also has electoral support programmes in some countries. No specific examples of collaboration with the FCO around political participation and democracy were given during the interview, but instances of such collaboration do exist. The FCO has also developed toolkits for UK Embassies to promote respect for the rule of law and democratic principles/values. It encourages both DFID and FCO missions to use these in order to assess the situation in the host country and provide guidance on the development of a rule of law and democratic governance action plan. As noted, the FCO is also currently developing a democracy policy paper. It was reported that DFID is working with FCO to try to reach common position but that this will not be a joint policy paper (interview).

Health

Selection of relevant human rights standards

ICESCR Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken ... shall include those necessary for:
 - (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child ...
 - (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

ICESCR General Comment 14

8. The right to health is not to be understood as a right to be *healthy*. The right to health contains both freedoms and entitlements. The freedoms include the right to control one's health and body, including sexual and reproductive freedom, and the right to be free from interference, such as the right to be free from torture, non-consensual medical treatment and

experimentation. By contrast, the entitlements include the right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health.

CRC Article 24

1. ... States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties ... shall take appropriate measures ...:

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition ...;

(f) To develop preventive health care, guidance for parents and family planning education and services.

CEDAW Article 12

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure ... access to health care services, including those related to family planning.

2. ... States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Document review

The **2006 White Paper** includes a chapter on 'Investing in People' that explicitly states that 'All human beings have a right to ... health' as set out in the UDHR and Millennium Declaration. This statement is made within the context of DFID's commitment to accelerating support to four essential public services (education, health, water and sanitation, and 'social protection'), which it believes are needed to accelerate faster progress on the MDGs. The specific section on health does not reiterate the right to health but does include commitments to: (i) help partner countries to abolish user fees for basic health services, and help them tackle other barriers to access including discrimination against women; (ii) support to international efforts, led by UNAIDS, to achieve the goal of universal access to comprehensive HIV prevention programmes, treatment, care and support by 2010; and (iii) support access to sexual and reproductive health services and rights, especially for girls.

The 2007 policy, ***Working Together for Better Health***, outlines DFID's strategy for supporting developing countries to improve the health of their people and reach the MDGs. This document therefore establishes the overarching strategy for the health sector, updating the 2000 Health TSP, and opens with a quote from the WHO constitution: 'the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition'. DFID's health strategy is structured around the health MDGs and DFID's related commitments. Of particular relevance are:

- *MDG5 (maternal health)*, which states that a needs-based approach to women's health needs to be 'complemented by greater attention to women's rights – so that women can make their own choices and have access to services' (p.14). Reference is also made to the international commitment made at the 1994 International Conference on Population and Development to promote sexual and reproductive health and rights.
- *MDG6 (combat HIV and AIDS, malaria and other diseases)*, which recognises that women, girls and vulnerable groups suffer disproportionately from these diseases because 'gender inequality and discrimination against vulnerable groups means they don't have control over the sexual and reproductive aspects of their lives, nor access to the right health care. Halting the spread of the epidemic will only come with increased action on human rights and gender equality.' (p.16).

- Also, the importance to the MDGs of combating gender discrimination, empowering women, improving the status of girls and increasing gender equality and rights is taken up in different places within the health strategy but in particular in relation to maternal health and HIV/AIDS.

However, the discussions in these sections are not linked to international human rights standards (for instance, there is no mention of either CEDAW or ICESCR) or state obligations for these human rights.

The health strategy identifies four DFID priorities in supporting better health for poor people, including 'the expansion of access to basic services'. The linkage is made between good governance and the delivery of improved health services, including the need to address social barriers and exclusion, to raise awareness of entitlements and support people to hold providers to account. The importance of gender equality is specifically highlighted. The statement is made that 'evidence-based, effective public health approaches must be promoted while individual rights are protected' and that 'culture, gender norms, political and religious beliefs must also be considered as they influence the design and delivery of policies and services' (p.41). Nevertheless, DFID's commitment to challenge gender inequality (e.g. Gender Equality Action Plan), to champion sexual and reproductive health rights and to promote comprehensive and effective HIV prevention services is reiterated. There are only two explicit references to human rights (in opening quote and the one relating to addressing HIV/AIDS given above). Rights are only used in other places in the document with reference to women's rights and sexual and reproductive rights.

The 2004 strategy document, ***Reducing Maternal Deaths***, establishes DFID's strategy for meeting the MDG on maternal health, including priority actions. This does not refer to the right to health but does make explicit reference to the 'right to be free of avoidable maternal death and disability, as required under several human rights conventions' (p.4), and to the role of the international community in supporting countries to uphold this right. One of the four priority actions is 'addressing wider barriers to access' and the discussion within this section includes references to discrimination and exclusion and the absence of 'legal and social rights' as obstacles to access. It also says that there is a 'need to define maternal mortality reduction in terms of human rights as well as health' and that the roots of these avoidable deaths lie in 'inequitable access to care, a sign of denial of women's rights ... maternal morality ... is a good indicator of the extent to which a health system is rights-based' (p.14). Legislation is highlighted as one important means of addressing this. The section on the action that DFID will take says that: 'Alongside strengthening of health systems, we need to address the barriers to maternal health in the wider environment. This will include raising the profile of maternal health as a way to promote the status and rights of women'. However, while maternal mortality is presented as being a result of a violation of rights, human rights standards are not used to frame the discussion of practical steps to improve maternal health. For instance, the discussion of hospital facilities or family planning is not linked to the right to maternal services or the right to non-discrimination and equality of access.

This strategy is accompanied by the 2005 guidance document, ***How to Reduce Maternal Deaths***, written explicitly to demonstrate how DFID country offices can practically use a HRBA to reduce maternal deaths. A human rights perspective is therefore the primary framework for this document (the only example of this in the documents reviewed) and human rights language is used throughout. The guidance is intended for non-specialists and specifically avoids overly technical or legalistic language. This guidance utilises the framework set out in the Human Rights TSP, seeking to show how the three operational principles (participation, inclusions and

obligation) can be used in practice to strengthen analysis, planning and implementation and add value to public health and health systems approaches. The use of the three principles means that the framework covers both actions to empower rights holders and those to improve state fulfilment of these rights (for example, the consistency of laws and national development plans with treaty obligations).

The guidance highlights some human rights standards relevant to maternal health, including the right to the highest attainable standard of health and those contained within CEDAW, stating that these are internationally agreed and give legitimacy to, and legal basis for, women's claims to maternal health. It does not make use of the more detailed measures set out in the relevant articles of the ICESCR and CEDAW, for instance the right of women to appropriate (free if necessary) services and nutrition during pregnancy. There is a section on increasing state accountability for maternal health, which explicitly states that 'Governments that have signed and ratified international human rights treaties have undertaken to respect, protect and fulfil the rights contained in the treaties, and to introduce these into national legislation' (p.8), including reference to treaty monitoring bodies. This includes a short discussion of the state's duty to progressively realise the right to health. The importance of a right-based approach in terms of focusing attention on inequalities in service provision and the need to address discrimination are stated (however, even this document does not explicitly present this as a right to non-discrimination which states have a duty to fulfil).

The 2004 Position Paper, ***Sexual and Reproductive Health and Rights***,²³ sets out DFID's position on sexual and reproductive rights, forming the basis for planning and activities and complementing related documents (on HIV/AIDS, maternal deaths and the Human Rights TSP). This explicitly recognises sexual and reproductive health as a human right that is grounded in international standards (and provides detail of these with reference to all the main human rights conventions, including a box on specific rights). It also references the 1994 International Conference on Population and Development, which established goals and targets on health and rights for all by 2015. The violation of the right to sexual and reproductive health is presented as a barrier to sexual and reproductive health, and gender discrimination and other forms of exclusion as a factor underlying maternal deaths. DFID's commitment to the progressive realisation of human rights and to a right-based approach is restated, saying that that DFID will use a rights-based approach as one part of a four-tiered strategy to address social, cultural and economic barriers to sexual and reproductive health, with 'the realisation of gender equality, rights, accountability and equity everywhere' as one aim. Components of a rights-based approach are also described, and actions that can be taken under the three principles are outlined. This includes obligation but does not link this to human rights standards to state obligations.

The 2004 strategy paper, ***Taking Action***,²⁴ is a cross-UK government document setting out UK strategy for achieving stronger action (internationally and nationally) to meet internationally agreed targets on HIV/AIDS. It includes an explicit commitment to ensure that the 'needs and rights of women, young people ... and marginalised groups are adequately addressed in the action we take' (p.1), to 'fund action that prioritises women, young people and vulnerable groups and focuses on human rights' and to support national strategies that 'priorities the needs and rights of

²³ Unlike the maternal health and HIV/AIDS strategies, the sexual and reproductive rights position paper does not have reporting requirements attached (interview).

²⁴ This strategy is in the process of being updated and a public consultation is currently taking place. The new version includes a particular section on stigma and discrimination that utilises more specific rights language'. There is also an intention to better integrate the AIDS and sexual and reproductive right strategies (interview).

women, young people, including orphans, marginalised and vulnerable groups' (p.2). There are also various commitments to working with UN, EU and other multilateral organisations to improve response. On actions to support national strategies, there is a specific section on human rights, which refers to the international human rights conventions and states that the UK government 'will concentrate on programmes that enable people, and especially poor people, to realise their human rights' (p.52). No specific reference to state obligations in the document. The role of stigma and discrimination in the prevalence of HIV/AIDS is also highlighted.

Analysis of the use of the human rights framework and standards

The MDGs are the primary framework for DFID's policy and activities in the health sector.²⁵ As shown by the documents relating to the specific themes (e.g. sexual and reproductive rights, maternal health and, to a lesser extent, HIV/AIDS), this does not necessarily exclude the use of a human rights framework. However, although both the White Paper and the Health Policy recognise the right to health, such statements are isolated (usually appearing at the beginning of the document/relevant section) and disconnected from analysis, policy and strategy in the remainder of the document. For instance, human rights are used to frame strategy in relation to MDG5 on maternal health and MDG6 on HIV/AIDS, reflecting the approach taken in thematic documents, but these sections are not embedded within a broader discussion or strategy in relation to the right to health.

All the health documents emphasise the needs of vulnerable groups and some make explicit commitments to prioritise the rights and needs of specific groups (e.g. HIV and AIDS strategy). They all also recognise that exclusion and discrimination prevent people, particularly women, from accessing health services, and are therefore factors in curtailing progress towards the MDGs. In fact, gender discrimination is a prominent theme and much of the use of human rights in the health documents is related to this.²⁶ In particular, a consistent position taken in all the documents is that discrimination and violation of women's rights impedes women's freedom to make choices and their ability to access health services, which impacts negatively on maternal health.²⁷ Given this, it is surprising that equality and non-discrimination are themselves not presented as human rights that are guaranteed by all the conventions and which states have an obligation to protect and promote. More marked still, is that these discussions are not embedded in CEDAW – which establishes standards for ensuring that women are not discriminated against in relation to the human rights established by the UDHR, ICCPR and ICESCR.

The underutilisation of CEDAW is consistent with the weakness of the linkages made with the international human rights framework in all the health documents, and particularly the overall health strategy. This has two consequences:

- (i) Most of the documents lack clear statements of state obligations vis-à-vis human rights, which would also enable discussion of entitlements based on specific human rights standards and state accountability for these.

²⁵ This was also stressed by health advisors interviewed, who said that the right to health is not used as rationale for programming in the health sector. The lack of familiarity of health and economic advisors with the rights framework was given as another example, although this was said to be slowly changing this as a result of the human rights training which was helping to familiarise advisors with rights language. It was also noted that the right-based approach adopted in the Human Rights TSP meant that the human rights standards, including the right to health, were not used as a starting point (interviews).

²⁶ The incentives produced by DFID's use of the MDGs to structure its objectives – and the relative focus on gender issues in the health-related MDGs – may be a reason for this.

²⁷ The Maternal Health Strategy also makes the related linkage that promoting the profile of maternal health is a means of improving women's rights and gender equality.

- (ii) The more detailed provisions – that relevant articles in the ICESCR, CRC and CEDAW establish the state has a duty to fulfil – are not utilised, despite significant overlap with DFID strategy and existing activities. For instance, maternal mortality is seen as a result of a violation of rights, but human rights standards are not used to frame discussion on steps to improving maternal health, such as linking hospital facilities or family planning to the right to maternal services or to non-discrimination and equality of access. Health-related standards in the CRC (e.g. health services for all children with emphasis on primary care) could have been used in relation to MDG4 on reducing child mortality. None of the documents utilises ICESCR General Comment 14 on the implementation of the right to health. Interestingly, the General Comment establishes that the right to health involves both freedoms (e.g. right to control one's body, sexual and reproductive freedom and freedom from interference) and entitlements (e.g. to a system of health provision that ensures the highest attainable standard of health). **The documents reviewed suggest that DFID is more comfortable utilising the rights relating to freedoms 'from' (negative rights) – which particularly relate to women's health and rights, including non-discrimination – than positive entitlements to specific types of health services.**

One reason for this emphasis on human rights principles, rather than the international human rights instruments and standards, is that the approach to human rights adopted in the health sector is based on the framework adopted in the Human Rights TSP and the particular interpretation of a rights-based approach this is rooted in (interview).

Working with the FCO and others

DFID leads on the health sector in the UK's external relations (although the FCO is the formal lead on the right to health). No instances of FCO work on health-related human rights violations were indicated during the interview and it was the perception of the advisors interviewed that the FCO would be unlikely to engage with health within third countries as their focus is on civil and political rights. At the international level, DFID works with the FCO in relation to health-related negotiations in the various international forums e.g. G8, EU, UN and the various international health conferences and assemblies e.g. World Health Assembly (interview). The FCO Mission to Geneva has worked closely with DFID in trying to advance international consensus on sexual and reproductive health and rights.

An area of future collaboration may be around HIV/AIDS-related human rights violations, both because the International Development Committee concluded that the FCO should be more involved in the rights of vulnerable groups but also because of the existence of a UK strategy (interview). The HIV/AIDS paper, *Taking Action*, is a cross-Whitehall strategy (Ministry of Defence, Ministry of Health, Home Office, DFID, FCO) with mandatory reporting requirements attached to its commitments, including 'improving coherence across UK policy-making on AIDS by establishing an informal cross-Whitehall working group on AIDS' and ensuring 'that all relevant government departments implement this strategy'. This therefore provides a focus for collaboration and a working group has been established to provide a vehicle for this, which meets three times a year. DFID is the department leading on the HIV/AIDS strategy, with responsibility for coordination and reporting on progress towards the targets set out in the HIV/AIDS strategy. The FCO 2006 Human Rights Report included a section on HIV/AIDS under a right to health heading, which discusses the UK strategy as a response to the 2001 UNGA Declaration on HIV and AIDS and the Greater Involvement of People Living with HIV and AIDS (GIPA) principle.

Education

Selection of relevant human rights standards

ICESCR Article 13 (similar provision are included in UDHR and CRC)

1. The States Parties to the present Covenant recognize the right of everyone to education ...

2. The States Parties to the present Covenant recognize that ...:

(a) Primary education shall be compulsory and available free to all;

(b) Secondary education in its different forms ... shall be made generally available and accessible to all by every appropriate means and in particular by the progressive introduction of free education;

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

CEDAW Article 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education.

ICESCR General Comment 13 establishes that the fundamental principles with respect to the right to education availability, accessibility, acceptability and adaptability to education in all its forms and at all levels.

Document review

DFID's 2001 TSP, *The Challenge of Universal Primary Education*, sets out DFID's strategy for meeting the IDTs on universal primary education and the elimination of gender disparity in primary and secondary education (translated into MDG2 and MDG3). The TSP establishes that education is a human right as enshrined in the UDHR and that, along with the CRC, this entails an obligation for state parties to make primary education compulsory and free for all (1.12). The linkage is drawn between the realisation of the right to universal primary education and the progressive realisation of other rights, in particular the right to gender equality, and the importance of these to economic and social and development (1.12, Executive Summary). Various references are made to the right to education of particular vulnerable groups, including disabled children, working children and those affected by conflict. The absence of access to good quality education is presented as a denial of fundamental human rights (1.4), and quality is defined in part with reference to the promotion of equality, respect for human rights and the all-round development of children (4.19). As MDG3 targets the elimination of gender disparity in access to primary and secondary education, gender discrimination and exclusion are frequent themes, both as an obstacle to universal education and also in terms of the relationship between education and gender empowerment and equality. The potential for gender policies and equal opportunities legislation to impact positively on equal access to education is noted (4.41).

The UPE TSP is supplemented by the 2005 Strategy Paper, *Girls' Education: Towards a Better Future for All*, which focuses specifically on DFID's strategy for improving progress towards MDG3. This recognises that education is a human right and that it is integral to the ability of girls and women to claim other rights and improve their status (pp.2-3). Addressing gender equality within education is presented as the first step to eliminating all forms of discrimination against women (p.3). The strategy makes an explicit commitment that DFID will work with UNIFEM 'to create a strong position for women in society and create a safe environment for girls to realise their right to education, including active support for the implementation of CEDAW and the Beijing Platform for Action' (p.23). The annex links MDG3 with provision for equality in education in UNDHR, CEDAW and CRC.

The **2006 White Paper** includes a chapter on ‘Investing in People’ that explicitly states that ‘All human beings have a right to ... education’ as set out in the UDHR and Millennium Declaration. This statement is made within the context of DFID’s commitment to accelerating support to four essential public services (education, health, water and sanitation, and ‘social protection’), which it believes are needed to make faster progress towards the MDGs. This is elaborated further in a specific section on education, which reiterates that ‘education is both a right and a route out of poverty’, as well as the UK government’s commitment to free primary education, with UPE presented as a priority. Explicit policy commitments are made to: (i) increased spending and long-term commitments (at least £8.5 billion between 2006-2015), including increased contribution to the Education for All Fast Track Initiative (from £50 to £150m. over next three years), (ii) support for the removal of user fees for primary education; (iii) support for special initiatives to get girls in school; and (iv) new support for higher education and vocational skills training.

Analysis of the use of the human rights framework and standards

The MDGs provide the principal framework for DFID’s approach to education, providing the rationale for its education policy and structuring its objectives. Human rights are present but are a subsidiary theme – indicated by a clear human right statement up front and sporadic reference to elements of the right through the documents.²⁸ Education is recognised as a human right in all three documents. References to human rights are more much more prominent in the UPE TSP than the Girls’ Education TSP, with has relatively weak use of human rights language and framework. The explicit recognition of education as a human right in the 2006 White Paper is an important signal of the position of the UK government. However, further references to human rights or linkages to the human rights framework are not made in the subsection on education, despite the specific policy commitments providing good entry points (for instance, the commitment to increased and long-term spending could be presented as positive support to partner governments to help them to fulfil their obligations). In fact, there is no reference to state obligations to realise the right to education or mechanisms for strengthening their accountability.

In contrast, the UPE TSP includes an explicit linkage to the international human rights framework and standards – though it is notable that there are references to the relevant articles in UDHR and CRC but *not* ICESCR. It also makes reference to specific measures in the relevant articles of UDHR and CRC, in particular rights to free and universal primary education, quality, accessibility and equality of access, as well as to the rights of specific groups of children to education, such as children with disabilities or working children. However, explicit linkage between elements of DFID’s policy and strategy and the right to education could be more consistently drawn throughout the UPE TSP. For example, the section on the rationale for making UPE free does not say that free primary education is a human right, which states have a duty to fulfil, and no use is made of ICESCR General Comment 11 (Plan of Action for Primary Education) or General Comment 13 (Implementation of the Right to Education). The linkage to the more specific measures within the right to education could also be strengthened given the consistency of these with many elements of DFID’s education strategy. This would provide an entry point for more detailed analysis of the content, quality and purpose of education, and the environment in which it is provided, beyond the focus on equality of access and the empowerment of

²⁸ This is reinforced by the one-page summary of the UPE TSP, which does not use a human rights framework beyond acknowledgement that education is a fundamental human right. The Executive Summary of the Girls Education TSP does not mention education as a human right, despite their being a section on this towards the beginning of the document.

disadvantaged groups (for instance by utilising CRC and IECESR provisions on education for the 'whole personality' or education as a means of promoting respect for 'human rights and fundamental freedoms', which emphasises the broader social role of education).

Some clear statements are made in the body of the UPE TSP on the obligations on state parties to the CRC around free, compulsory primary education for all and gender equality in access to education. However, state obligations in relation to education, and domestic enforcement mechanisms to promote accountability for these, are not a well developed theme, and do not appear at all in the Girls' Education TSP. For instance, in the latter there is only reference in the Executive Summary to the obligations of the international community to 'give well-coordinated support UPE and gender equality within comprehensive frameworks of assistance at the national level'. This is a missed opportunity given that improving accountability and demand for better services is seen as important for achieving the education MDGs and, by utilising the international human rights framework, this debate could be placed in the context of specific legal entitlements and state obligations for these. Emphasising state obligation and accountability for specific standards is also a way to reflect the position taken by DFID on governance (which emphasises the need to work with both state and citizen to improve governance – or duty-bearers and rights-holders in human rights language) within the education sector.

Perhaps the most striking omission is in not presenting gender equality generally, and equality of access to education more specifically, as a human right in its own right. It could be argued that universality, equality and non-discrimination in the realisation of the full range of human rights is *the* core feature of the international human rights framework and explicit state obligations to guarantee rights without discrimination is present in all the main human rights treaties. In addition, CEDAW is dedicated to further elaborating the right to gender equality and non-discrimination in the realisation of the full range of rights. All three documents could capitalise on the opportunity to frame gender equality and non-discrimination in this way, but particularly the Girls' Education TSP.

It is also notable that secondary education is mentioned only briefly in both strategy documents, despite being an element of MDG3, and higher education is almost entirely absent. The MDG focus also means that there is no consistency in terms of the call for free and *compulsory* education (with the compulsory element more prominent in the strategy on Girls' Education than in the UPE strategy). Nevertheless, the universality of the MDG targets on primary education (for all) and gender equality (elimination of gender disparity) means that these are more obviously consistent with the human rights provisions and it is easier therefore for DFID to approach these the MDG and human rights frameworks as being mutually reinforcing.

There is potential for confusion because of the various international initiatives on education, including Free Primary Education, Universal Primary Education and Education for All.

Working with the FCO

DFD has the lead on education in the UK's external relations (though the FCO has the lead on the right to education) and works with the FCO, the Department for Children, Schools and Families, and the Treasury in relation to commitments to UPE (which the Treasury also sees as a priority). The FCO's 2006 Human Rights Report

includes a section on the right to education, referring to the UK government spending commitment. The FCO is interested in Islamic education (interview).

Adequate standard of living

Selection of relevant human rights standards

ICESCR Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food ...;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

General Comments²⁹ exist on the implementation of the right to adequate housing (*ICESCR General Comment 4*) and the right to adequate food (*ICESCR General Comment 12*). These provide detail on what realising these rights mean in practice, including sections on definitions of adequacy (including in relation to cultural acceptability), availability, accessibility, the obligations of states, and calls for monitoring of progress of the progressive realisation of the right.

ICESCR General Comment 15 establishes that the right to water is one of the human rights contained within Article 11 on the right to adequate standard of living because it essential for the realisation of this right. It states that: 'The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related disease and to provide for consumption, cooking, personal and domestic hygienic requirements' and outlines three principles required for the right to be realised: availability, quality and accessibility.

Document review

The **2006 White Paper** is a recent statement of DFID policy commitments in this area. It includes a chapter on 'Investing in People' that explicitly states that 'All human beings have a right to food, clothing and shelter' as set out in the UDHR and Millennium Declaration. It also states that 'everyone should have access to ... water and sanitation' (but does not explicitly state that there is a right to water) and makes a commitment to increased support for four essential public services that DFID believes is necessary to accelerate progress towards the MDGs, including water and sanitation. There is a subsection on water and sanitation, which includes a commitment to increase the UK assistance to water and sanitation (to £95m a year by 2007/8 and to £200m by 2010/11), but this section does not make reference to rights. The right to food, clothing and shelter is stated at the beginning of the chapter but DFID policy in this area is not further elaborated and no specific commitments are made in relation to these rights.

The main DFID document in relation to food is the 2001 TSP, ***Eliminating Hunger***, which outlines DFID strategy for supporting progress on the MDG1 target of reducing by half the proportion of people who suffer from hunger. This explicitly states that: 'Food is a human right, as formally recognised in international law', and includes reference to the relevant articles in the UDHR, ICESCR and CRC as well as to

²⁹ General Comments on thematic issues are published by the UN human rights treaty bodies (i.e. Committees of independent experts that monitor implementation of the international human rights treaties) to provide interpretation of the content of human rights standards.

ICESCR General Comment 12 (p.2, note 1), and that that 'States have the primary responsibility for enabling their citizens to realise their right to food, by promoting the economic, social and institutional means that ensure sustainable access to food' (p.3). It is also acknowledged that the international community has obligations 'that require us all to act to eradicate hunger wherever it occurs'. The relationship between the realisation of human rights and food security is highlighted, with reference to the World Food Summit in 1996, as is the importance of looking beyond issues of availability in order to understand the factors that prevent poor people from realising their right to food. The role of discrimination is also mentioned and the value of a rights-based approach in tackling this. The Secretary of State's Foreword stresses that 'Respect for the human rights of the poor is a theme of this paper' and that a 'Rights-based approaches to tackling hunger aim to empower poor people to have their say about their future'. The use of a 'rights-based approach to tackling food insecurity' is reiterated in the Executive Summary, suggesting that *inter alia* this 'strengthen[s] political will by stressing the obligations of states and other duty bearers'. The rights-based theme emerges several times within the document, making reference to the approach in Human Rights TSP and its emphasise on 'increasing the participation of poor people in policy-making, but also the fulfilment of obligations by States and other duty bearers' (p.13).

DFID only addresses issues relating to housing and shelter in relation to urban development. Its strategy in this area is set out in the 2001 TSP, ***Meeting the Challenge of Poverty in Urban Areas***. This document states that the TSP series sets out a framework based *inter alia* on the integration of rights into DFID's work. The strategy therefore makes references to human rights throughout, for instance by discussing how the failure of governments to meet poor people's rights limits their opportunities, the manner in which urban governance systems discriminate against the rights of particular groups and stressing the importance of putting an understanding of poor people's rights, needs and capacities at the centre of the development agenda. The section on DFID priorities frequently mentions supporting the rights of poor people.

Human rights are not referred to in relation to housing and shelter, and there is no reference to the right to housing or the right to an adequate standard of living. The closest references is in relation to the UN Habitat Agenda, including its commitment on Adequate Shelter for All (access to land, with security of tenure, equal property rights for women and access to essential services) (p.14) and the various targets relating to increasing adequate shelter (e.g. MDG, Commonwealth Heads of Government) (p.15). The importance of security of tenure and associated legal frameworks is discussed, but the potential negative short and medium-term consequences of statutory forms of tenure are also highlighted and it is suggested that increasing the rights of residents, for instance by protecting them from forced evictions, may be a better approach in some circumstances than titling. However this discussion is not linked to human right framework (e.g. relevant parts of General Comment 4). Other parts of the document are consistent with human rights standards but do not make reference to these, for instance: 'This requires local government ... and national governments to create regulatory frameworks which enable all sections of the urban population to gain access to land, safe and secure shelter and services on terms which are appropriate and affordable' (p.27), or the definition of 'Slum settlement' as being those characterised by a lack of formal legal status, *adequate housing* and services, as well as overcrowded and inadequate formal housing (emphasis added) (p.14).

The 2006 MDG Factsheet, ***Urban Poverty and Slum Dwellers***, discusses progress towards the MDG7 target of 'achieving significant progress in the lives of at least 100

million slum dwellers'. It states that national approaches 'have generally shifted from policies such as forced eviction or benign neglect, to a more positive focus that support self-help, upgrading and rights-based approaches' and that 'secure tenure, the right to occupy property, is now recognised as critical for the urban poor' (p.3). No references are made to *human rights* or to the international human rights framework or standards.

A joint (DFID, FCO and DEFRA) statement, ***Human Right to Water***, was produced in 2006 establishing the UK government's position on the right to water and its implementation. The right to water is only explicitly stated in the ICESCR General Comment 15 (rather than in the ICESCR i.e. the legally binding instrument). This meant that a separate legal statement was necessary in order for the UK government to officially recognise the right to water. This states that the right to water is an element of 'the right to everyone of an adequate standard of living' (ICESCR Article 11) and that the UK government considers that the right to water 'entitles everyone to a sufficient amount of reasonably affordable and accessible water necessary for survival' (para.3) with priority given to water for drinking, cooking and personal hygiene (para.7). The statement recognises that the right to water is legally binding on states who have ratified the ICESCR and requires them 'to take steps, within their available resources, towards progressive realisation of the right' (para.14) and that 'states have a duty to take whatever steps they can to ensure that everyone enjoys the right to water, without discrimination' (para.7). This includes addressing physical and economic accessibility: 'in order to meet their obligations, states must seek to take specific measures to address the issue of affordability' (para.14). In particular, the statement emphasises that states should 'reasonably accommodate' the needs of the poorest and most vulnerable (para.10), which 'is likely to mean that' states must: seek to extend service delivery to people not currently served; not ignore remote communities; ensure equality of access for people without land tenure; and protect the poorest and most vulnerable from exclusion through social practices (para.11). The commitment of the UK government to support partner governments to fulfil their obligations under the ICESCR is also expressed (para.15). It is also highlighted that the universal nature of human rights, including the right to water, 'takes us beyond the MDG target and give states responsibility for ensuring reasonable access to safe water for all, including the poorest and most socially excluded' (para.14).

The 2007 Update on the 2004 Water Action Plan, ***Meeting Our Promises***, refers to the UK government statement on the human right to water, its recognition that the 'right to access to safe, affordable water is a human right' (p.1) and the obligation this places on governments 'to ensure that everyone has access to water'.³⁰

Analysis of the use of the human rights framework and standards

The right to an adequate standard of living does not provide an overarching framework for DFID's work and is only explicitly referred to in the statement on the right to water. One reason for this is that the right actually encompasses a number of different rights and issues, which are the responsibility of different teams and advisors. The linkage among these issues – and in particular among food, housing and water – is not facilitated by DFID's organisation structure, with food and housing being crosscutting issues and only water having a sectoral focus and clear institutional home in the policy division. For instance, it was noted that livelihood advisors (responsible for food issues) are more likely to collaborate with advisors working on agriculture and social protection (which includes food security) than

³⁰ DFID's water team are currently developing a water sanitation and resource management policy and a guidance note (probably a 'how to') that outlines what the UK statement means for specifically for DFID activities and how it will be implemented.

infrastructure (who have responsibility for housing), and that work on infrastructure is more likely to be related to water and sanitation. These issues also have different status within DFID: housing is not a priority area at present, whereas water is high on the political agenda (interview). There are gains to be made in emphasising the interdependence of these different issues and presenting them as individual rights, which together contribute to the realisation of the right to adequate standard of living. This would also emphasise the importance of other public services that the right implies, such as infrastructure and amenities (see relevant General Comments), which could link rural and urban issues.

The explicit recognition of the right to housing, food and clothing in the 2006 White Paper may have the potential to stimulate activity in this area in relation to rights (for instance it was suggested that it may result in research on land tenure and titling). The opportunity to present these as cohesive elements of the right to an adequate standard of living, which also includes water, has not been taken and the potential impetus may be undermined by there not being specific policy commitments on food, housing and clothing and there not being a statement about the right to water in the White Paper. The latter is a clear inconsistency (both within the White Paper and in relation to other policies), given that: (i) water sanitation is identified as one of the four essential public services with specific policy commitments attached; (ii) there is a UK government statement on the human right to water.

The MDGs are the principal framework for DFID's work on both food and housing/shelter³¹ and explicit reference to human rights and human rights standards varies in relation to these issues. While human rights are not the primary framework for the Hunger TSP, it does use a rights-based approach. This is consistent with the approach set out in the Human Rights TSP and therefore emphasises empowerment of marginalised people so that they can participate in policymaking processes as central to the meaning of a rights-based approach. However, there is also explicit recognition that there is a right to food grounded in legally binding international treaties, which give rise to state obligations. The inclusion of the importance of international cooperation in realising the right to be free from hunger, which is also states in the TSP, means that DFID's support to food security could legitimately be presented as contributing to the realisation of this right.

The Urban Development TSP refers to rights throughout but not in relation to housing. There are also no references to the ICESCR, its specific standards on housing (or its elaboration in the General Comment 4) and the corresponding state obligations. There are clear consistencies in this document (as highlighted above) with the relevant human rights standards and therefore opportunities for strengthening this linkage. In particular, improving conditions for slum dwellers and protecting them against forced eviction is an area where there is proximity between DFID priorities (e.g. MDG7) and the international human rights framework and commitments. This could therefore provide a relatively straightforward entry point for strengthening the use of human right standards and state obligations. Land tenure is another promising entry point given that land reform and legal titles are a core development theme (interview).

The purpose of the UK government statement on the Human Right to Water is to establish the UK's position on this right. The UK position is based on the international human rights instruments, standards – specifically ICESCR Article 11 and General

³¹ The potential tensions between strategies to achieve numerical targets (e.g. halving poverty, improving conditions of set number of slum dwellers) and the universality of the human rights framework should be noted.

Comment 15 – and corresponding state obligations and is therefore unique in terms of the document reviewed. In establishing the UK's position on this right, the statement also seeks to establish what the UK believes are the limits to the human right to water and state obligations in respect to this and, while the statement is broadly consistent with the General Comment, it is explicitly stated that the UK government does not accept all elements of General Comment 15 (para.5). Of particular note, the UK statement does not acknowledge the international obligations relating to the right to water, relating to ICESCR Articles 2 and 11³² and explicitly covered in Section II of the General Comment. Also, unlike the General Comment, the UK Statement does not explicitly recognise the interdependence among human rights, for instance, the need for states to fulfil the obligations to ensure access to adequate sanitation (an element of the right to health and housing) in order to for them to fulfil their obligations vis-à-vis the right to water (UN CESCR, 2003: para.29).

The 2007 update on the 2004 Water Action Plan is consistent with the statement in terms of referring to it and the UK recognition of the right to water. The implications of the UK position on the right to water are not integrated in other places in the document, for example, activities that DFID is supporting are discussed but these are not linked to the realisation of the right to water or DFID support to states to fulfil their obligations, despite many of these activities being consistent with the approach set out in the UK statement.

Working with the FCO and others

It is in relation to the constituent parts of the right to an adequate standard of living that the clearest examples of collaboration between DFID and the FCO have occurred: (i) a joint FCO/DFID team was involved in a two-year process of negotiations on the Voluntary Guidelines on the Right to Food, which was led by the FAO; and (ii) the 2006 UK Government Statement on the Human Right to Water was the result of an intensive process of collaboration between UK government departments, including DFID, the FCO and DEFRA (the domestic lead on water with responsibility for elaborating what the statement means in UK terms).

Another example of DFID work with the FCO in international forums includes preparation for the World Summit on Sustainable Development. This process included debates on whether the UK would support the right to a clean and healthy environment (which DEFRA leads). This was challenged by DTI because of its domestic application and also by the FCO, which was concerned that violations cannot be assessed and therefore the right would undermine the integrity of the body of international law (interview).

The Department for Communities and Local Government has the lead on housing for the UK government (but DEFRA also has responsibilities in relation to domestic housing), including fulfilling international reporting requirements and the relationship with UN Habitat. However, DFID leads on housing as it relates to development issues and provides core funds to UN Habitat. In Kenya, DFID has provided funding to the Centre for Housing Rights and Evictions. No specific examples of cooperation between DFID and the FCO on housing and human rights at headquarters emerged during interviews and it was thought that housing and shelter were not likely to be dealt with by FCO at country level, except in relation to forced evictions (e.g. DFID and the FCO worked together on the UK government response to the Murambatsvina clearances in Zimbabwe in 2005) (interview).

³² Article 2 relates to the provision of international assistance with a view to achieving progressively the full realisation of the ICESCR rights.

Social security

Selection of relevant human rights standards

UDHR

Article 22: Everyone, as a member of society, has the right to *social security*

Article 23 (3): Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of *social protection*.

Article 25

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including ... the *right to security* in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control ...

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same *social protection*.

ICESCR Article 9

The States Parties to the present Covenant recognize the right of everyone to *social security*, including social insurance.

Relevant articles in other instruments also include:

CEDAW (Art 11.1.e social security; 11.2. b maternity benefits, 13 family benefits, 14 benefits for rural women)

CRC (Art. 26 social security including social insurance)

Key ILO social security standards

- Social Security (Minimum Standards) Convention, 1952 (No 102)
- Equality of Treatment (Social Security) Convention, 1962 (no 118)
- Employment Injury Benefits Convention, 1964 (No 121)
- Invalidity, Old- Age and Survivors' Benefits Convention, 1967 (no 128)
- Medical Care and Sickness Benefits Convention, 1969 (No 130)
- Maintenance of Social Security Rights Convention, 1982 (No 157)
- Employment Promotion and Protection against Unemployment Convention, 1988 (No 168)
- Maternity Protection Convention, 2000 (No 183)

Document review

The 2005 Practice Paper, ***Social Transfers and Chronic Poverty***, sets out existing evidence relating to the implementation and impact of social transfers. This contributes to DFID's thinking on the implementation of the Commission for Africa's recommendations on social protection.³³ The paper explicitly states that 'Social Protection has long been recognised as a fundamental human right' (p.6). A box provides references to the relevant standards of the UDHR (Arts 22, 23.2, 25) and the ICESCR (7, 9 and 11). The function of social transfers as 'entitlements provided by the state as part of its social contract with its citizens' is mentioned (p.5), as is the importance of accountability e.g. 'to ensure transfers reach the right hands, robust and transparent systems of accountability need to be put in place' (p.29). However, neither entitlements nor accountability are related to specific standards and state obligations for these (accountability is discussed specifically in relation to targeting and monitoring). There is also a discussion of the importance of social transfers for

³³ The document does not indicate that it is a statement of DFID's position or policy on social transfers. However, the paper has an implementation plan attached and is being reviewed by the DC, activities that are usually reserved for policies and that would suggest that it has a higher status than a guidance document (which is implied by it being branded a 'Practice Paper').

addressing inequalities, particular gender-related, but this is not rooted in a discussion of rights to equality and non-discrimination.

The **2006 White Paper** includes a chapter on 'Investing in People' that explicitly states that 'All human beings have a right to ...social security' as set out in the UDHR and Millennium Declaration. 'Social protection' is also presented as one of four public services that are essential if countries are to accelerate progress towards the MDGs. It is not stated that social protection is a human right and the relationship between social protection and the right to social security is not discussed. The role of social protection in addressing inequalities and empowering women is mentioned. Commitments are made to increase spending on social protection and to work with European partners and African governments to move from relief to long-term social protection programmes.

Analysis of the use of the human rights framework and standards

As the Social Transfers Practice Paper notes, there is debate about the meaning of social protection, but that: 'broadly defined, it encompasses a sub-set of public actions – carried out by the state or privately – that address risk, vulnerability and chronic poverty'. The paper states that, for operational purposes, social protection can be subdivided into three key components: social insurance (contributory); social assistance (non-contributory); and minimum standards in workplace (Box 1). Social protection is referred to in the human rights instruments but it is much less well defined than social security. Piron (2004) argues that different human rights can collectively deliver social protection. These go beyond social security and include, for instance, the right to an adequate standard of living, the highest attainable standard of health, non-discrimination and state obligations to fulfil minimum standards (e.g. essential food stuff, essential primary care, basic shelter and housing and basic forms of education).³⁴ The relevant articles of UDHR and ICESCR referred to in the Social Transfers Practice Paper (Box 2) would suggest that DFID also perceives social protection as relating to a broader range of rights than social security and includes 'just and favourable working conditions' (ICESCR Art.7) and 'adequate standard of living' (ICESCR Art.11). This discussion needs to be made explicit and a consistent and clear position taken.³⁵

Social security is a more specific concept – referring to a particular form of social protection instrument, traditionally based around formal employment and including social insurance (contributory schemes) and social assistance (social transfers) (Piron, 2004). The right to social security is explicitly covered by specific human rights standards in several of the human rights instruments (UDHR, ICESCR, CEDAW, CRC and ILO Conventions).

The explicit recognition of the right to social protection in the Social Transfers Practice Paper (the first by DFID) and the right to social security in the 2006 White Paper is important. These statements need to be better integrated with the

³⁴ Though not included here, the international standards that relate to the prevention of exploitation (e.g. those relating to child labour (ICESCR Art.10) and decent work (UDHR Arts 4, 23; ICESCR Art s 6, 7, 8; ILO standards) are also important for the social protection of vulnerable and poor people. The Social Transfers Practice Paper also recognises this makes as it refers to ICESCR Article 7 (working conditions). DFID's 2004 Human Rights Review noted that labour standards is an area where DFID has a body of work more clearly rooted in international standards through its support to the ILO, policy framework based on the ILO Conventions and activities to combat child labour and trafficking (Piron and Watkins, 2004).

³⁵ Social protection and the international human rights framework are already dealt with extensively in a DFID-commissioned paper (Piron, 2004), which could serve as a basis for further work in this area.

discussion, analysis and recommendations elsewhere in these documents. In the Social Transfers Practice Paper discussions include the following:

- Entitlements, accountability, discrimination and inequality are not related to the relevant human rights standards and corresponding state obligations.
- The potential for social transfers to empower poor people in the context of the state-citizen social contract is framed in terms of the ability of citizens to access more resources, rather than also recognising that recipients of social transfers are rights-holders with specific entitlements that the state has an obligation to fulfil, and that such schemes can strengthen the legitimacy of the state through realisation of this right.
- Targeting does not consider rights to equality and non-discrimination in relation to access to social protection or the implications that the human rights framework might have in terms of debates about universality or targeting (Piron, 2004).

The 2006 White Paper recognises the right to social security but it is not discussed in the section on social protection. Further elaboration of the implications of this commitment for DFID's analytical and operational work on social protection is now needed. The 2006 White Paper does not restate the right to social protection set out in the Social Transfers Practice Paper. As discussed, social protection is less well defined than social security – both as a concept and a human right – and consistency in reference to these two terms will therefore minimise confusion about DFID's position.

Working with the FCO and others

No examples of joint DFID working with the FCO on social protection issues at either headquarters or country level were suggested during interviews. It was indicated that DFID does work with the FCO in terms of the more specific issues of labour standards, slavery and human trafficking (interview). Abolition of child labour is one of the FCO priority themes and there is a section on the FCO's 2006 Human Rights Report on labour rights that refers to UK government programmes in this area (with the majority of activities in the area of trafficking). This section also refers to DFID's long-term partnership with the ILO to help strengthen the poverty focus of the organisation's work and through which DFID provides substantial funding to work on elimination of child and forced labour.

Women's human rights

Selection of relevant human rights standards

Convention on the Elimination of Discrimination against Women

Rather than constituting a separate set of rights for women, CEDAW defines what constitutes discrimination against women and establishes an agenda for action at the national level to end this discrimination in relation to the human rights established by the International Bill of Rights (UDHR, ICCPR and IESCR) and to provide the basis for realising equality between men and women. Exceptions to the principle of equality relate to measures that affirm the rights specific to women with respect to family planning, pregnancy, confinement and post-natal period, and maternity benefits. Unique to CEDAW is the affirmation of women's reproductive rights. By accepting the Convention, States commit themselves to undertaking appropriate measures, including legislation and temporary measures, to end discrimination against women in all forms and enable them to realise all their human rights. (www.unifem.org).

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women ...

Articles relating to the elimination of discrimination in:

Political and public life (Art. 7 & 8)
Nationality (Art.9)
Education (Art.10)
Employment, including maternity-related benefits (Art.11)
Health (Art.12)
Economic and social life (Art. 13)
Rural women (Art.14)
Law (Art. 15)
Marriage and family relations (Art.16)

Other relevant articles:

Positive discrimination (Art.4)
Cultural patterns modified and recognition of common responsibility for childcare (Art.5)
Prevention of trafficking of women (Art.6)

Document review

The 2000 TSP, ***Poverty Elimination and the Empowerment of Women***, outlines DFID's strategy for making progress towards the achievement of the IDTs, which have since been translated into MDG3 on the promotion of gender equality. The TSP focuses on 'the powerful links between women's empowerment and the elimination of world poverty', stating that 'the struggle for gender equality is a key instrument for lifting hundreds of millions of people out of poverty ... it is also a central element of the wider struggle for human rights for all' (p.10). The TSP describes the 1995 Beijing Conferences' Global Platform for Action, recognising that this builds on CEDAW and other human rights instruments. The combination of the IDTs, CEDAW, and the Platform for Action is presented as 'a powerful and challenging framework of international agreements for the pursuit of gender equality' (p.20). These are the only references made to CEDAW and there is no discussion of the human rights standards contained within this convention or the corresponding state obligations to fulfil these. It is stated that gender equality is a human right and therefore it is 'the duty of governments to ensure that commitments to equal rights and opportunities are upheld' (p.23). Therefore references to human rights are made but there are few to specific human rights. Exceptions include the rights to political participation, health, respect for people's culture and respect for the human rights of women, as recognised in the UDHR (p.19). No reference is made to state obligations to ensure equality in access to these rights. More generally, there are no references to the obligations on states to ensure the equal right of men and women to the enjoyment of all the rights contained within the treaties that they have ratified (e.g. as set out in ICESCR Art.3., ICCPR Art.3., CRC Art.2, CEDAW).

The paper describes how gender equality has been an element of DFID's work since the 1997 White Paper, which made a commitment to put gender equality at the heart of international development, based on recognition of the direct link between gender inequality, human rights and poverty. This commitment has been implemented on the basis of a 'twin-track' approach, which combines the mainstreaming of gender with specific activities aimed at empowering women. Reference is made to the Human Rights TSP, as well as to the Education for All TSP in relation to the strategy for making progress towards gender equality in access to primary and secondary schools.

The **2006 White Paper** includes specific commitments to give greater priority to DFID's work in support of gender equality and women's rights and to support access to sexual and reproductive health services and rights, particularly for women and girls. The role of discrimination in preventing women from accessing services,

including education, and as a barrier to effectively fighting AIDS, is explicitly recognised.

The 2007 ***Gender Equality Action Plan 2007-9*** sets out how DFID will help developing countries to achieve gender equality and women's empowerment. It reiterates the commitment to make gender equality and women's rights more of a priority in the 2006 White Paper. It states that the Gender Equality Duty of the 2006 Equality Act requires UK public bodies 'to promote equal opportunities between men and women by building gender equality into their work and how they do it', and to set out their plans in a Gender Duty Scheme (p.3).³⁶ Gender equality is said to matter because 'it is a goal in its own right, and has a vital role to play in the achievement of MDG3' (p.1). It is presented as a political issue that requires the international community to 'address the wider issues of promoting justice for everyone, tackling discrimination and upholding women's rights', and that progress towards the MDGs and social justice 'means more direct action is needed to promote women's rights and freedoms' as ends in themselves (p.2). The right to gender equality, human rights instruments/standards and state obligations are not mentioned.

Analysis of the use of the human rights framework and standards

There is limited use of the international human rights instruments and standards in these documents. The human right to gender equality is explicitly referred to once and there are no references to discrimination as a violation of this right. UDHR and CEDAW are briefly mentioned in the Women's Empowerment TSP. The lack of utilisation of CEDAW – which could have included discussion of its purpose and specific standards – is particularly noticeable given its relevance. Such a discussion would have enabled:

- Explicit recognition that state parties to CEDAW have obligations to respect, promote and fulfil the rights contained within it (which are generally concerned with ensuring that women have equal access to all the human rights contained within the UDHR, ICESCR and ICCPR).
- Linkages between gender equality and sectoral issues, for example, human rights standards can be used to clarify the relationship between the right to gender equality in relation to, for instance, the right to health or education, or the duty that states have to ensure that women do not experience discrimination in the enjoyment of this right.

The Women's Empowerment TSP does not facilitate the linkage of gender equality and discrimination, and activities around these, to be related to human rights, as well as poverty reduction/MDGs.

There are some possible implications to DFID not using the international human rights framework to ground its policy on gender equality and women's empowerment, including:

- DFID activities might focus on interventions to empower women (e.g. participation and capacity-building measures) and these might not be balanced by interventions to help governments to fulfil their obligations to promote women's right to equality in the enjoyment of all their human rights or those to help citizens to hold government to account when they do not do so.

³⁶ It commits DFID to publishing their Gender Equality Duty Scheme by April 2007, which will set out how DFID is promoting gender equality in all its development policy and programmes and employment practices. It also states that DFID's Corporate Plan will be published in December 2007, which will articulate a clear vision on gender equality and women's empowerment, supporting by consistent policy and practice and that gender will be integrated on forthcoming policy papers on conflict, health, water, UN reform and results.

- The policy on women’s empowerment will appear dated or not consistent with other policies. This is in two main senses:
 - (i) The approach in the Women’s Empowerment TSP may not be consistent with the approach to gender equality in DFID’s other policies. For instance, more recent policies, such as the White Paper, use the language of gender equality and *women’s rights*, rather than women’s empowerment, which is a matter of substance as well as semantics.
 - (ii) The degree to which the Women’s Empowerment TSP is consistent with broader policy developments within DFID. For instance, the increased prominence of themes of state effectiveness, accountability, governance and state obligations in DFID’s high-level policies (e.g. White Paper, Conditionality Policy) and their relative absence in the Women’s Empowerment TSP.

Gender equality and discrimination are the most common themes in the documents reviewed, possibly as a result of the strong gender focus of the MDG targets. DFID has also made a commitment to mainstream gender equality throughout its work (1997 White Paper, Gender Equality Duty Scheme) and to work more on gender equality and women’s rights (2006 White Paper). It would therefore seem particularly important that the Women’s Empowerment TSP is able to provide solid and up-to-date guidance – both for policy teams and country offices³⁷ – for the integration of gender equality in all DFID’s activities. This would suggest the need for greater prominence to be given to the international human rights framework and state obligations with respect to gender equality.

Working with the FCO and others

The DCLG has the overall lead on equalities for the UK government, including gender equality and the position of women. This includes responsibility for coordinating reporting on the implementation of CEDAW. The UK has recently submitted a report to the Committee on the Elimination of Discrimination Against Women, with inputs from DFID (although the view was expressed that it was difficult to report on DFID’s activities within the structure of the report). It was reported that DFID engages with other government departments on gender issues at sectoral level (e.g. UK strategy on HIV/AIDS), and with DCLG and FCO with respect to overall UK policy on gender equality and women’s rights. The view was expressed that there was scope for this collaboration to be strengthened to ensure greater coherence between domestic and international work around women’s rights.

DFID also collaborates with the FCO, DCLG and other Whitehall departments when gender issues are discussed in international forums (e.g. Commission on the Status of Women, World Health Assembly), for example, participation in the UK Delegation through email briefings on the UK position. No examples were given of collaboration between the FCO and DFID at country level, where DFID tends to be more active on gender issues. An important reason for this is that women’s rights are not a high priority for the FCO (interview, email correspondence with DFID advisor).

³⁷ Country offices are also required to do a gender and social exclusion assessment as part of their Country Assistance Plan.

Children's and youth rights

Selection of relevant human rights standards

Convention on the Rights of the Child

The UN Convention on the Rights of the Child (CRC) recognises that the particular status of children engenders specific forms of vulnerability, as well as particular interests and entitlements. It sets out the inherent rights and entitlements needed to guarantee a child's right to survival, development and an adequate standard of living. These rights encompass entitlements to basic standards in health, education, food, shelter, welfare and protection from exploitation and violence

Specific rights in CRC (not in other conventions):

Non-discrimination: Article 2
Best interests of the child: Article 3
Survival and development: Article 6
The child's opinion: Article 12
Protection from abuse and neglect: A 19
Refugee children: Article 22
Disabled children: Article 23
Child labour: Article 32
Sexual exploitation: Article 34
Sale, trafficking and abduction: Art 35
Armed conflicts: Article 38
Administration of juvenile justice: Art 40

CRC articles relating to rights covered in ICCPR:

Nationality: Art.7
Identity: Art. 8
Freedom of expression: art. 13
Freedom of conscience: Art. 14
Access to information: Art. 17

CRC articles relating to rights covered in ICESCR

Health: Art. 24
Social security: Art.26
Standard of living: Art. 27
Education: Art.28 & 29
Minority/indigenous rights: Art. 30
Cultural life: Art. 31

Document review

The 1997 White Paper states that DFID will support international efforts to 'enhance children's well-being through the implementation of the CRC'. The 2006 White Papers include commitments in relation to the MDGs on education, infant and child mortality, child trafficking and labour, and support to access to sexual and reproductive health services and rights for girls (and women).

The **2002 paper, *Breaking the Cycle of Child Poverty***, sets out DFID's strategy for implementing a child-rights based approach to poverty reduction. The CRC provides a framework for the paper and there are consistent references to human rights throughout. It is recognised that the CRC establishes 'the rights and entitlements needed to guarantee a child's right to survival, development and an adequate standard of living' and that these rights include 'entitlements to basic standards in health, education, food, shelter, welfare and protection from exploitation and violence'. It is also explicitly recognised that the state has primary responsibility in relation to these entitlements, including assisting parents to fulfil their responsibilities under the CRC.

The paper seeks to highlight the principles and entitlements outlined in the CRC that can be used by DFID in its work to reduce child poverty, suggesting that DFID policy should conform to three key principles (p.12):

- *Non-discrimination*: All states are given the responsibility to promote inclusion, to act without discrimination of any kind, and to respect and ensure the rights of children within their jurisdiction. The onus falls on states to provide equitable provision in terms of the law and policing; fiscal and economic policies; health, education, infrastructure and social welfare programmes; and space for civil and political participation.
- *The best interests of the child*: This seeks to address the specific rights and needs of children, recognises that the needs of children do not always coincide with those of adults and should always be given primacy.
- *Participation*: This principle entitles a child to express his or her views freely in all matters affecting him or her. The CRC couches children's right to participation within references to their varying capabilities, age and maturity, and evolving capacities.

The **2004 Action Plan on Children and Young People Participation, *Learning to Listen***, sets out DFID commitment to participatory approaches in relation to children and young people. In the first paragraph of the Action Plan, participation is defined as a right, in accordance with the HR TSP. No explicit mention is made of the relevant articles of the CRC (e.g. Article 12 on the child's right to be heard). The most explicit references to children's rights are made in relation to DFID support to partner agencies that focus on human rights and RBAs, namely the Programme Partnership Agreements (PPAs) that DFID has agreed with Save the Children UK, Plan and UNICEF. The PPAs include a formal commitment to human rights and HRBAs, strongly supported by DFID.

The **Human Rights TSP** makes reference to the CRC in its overview of all the relevant human rights instruments. However, it does not make any specific reference to DFID position on children's rights or the ways in which DFID engages with treaty bodies and other processes related to the CRC. The importance of children's rights is mentioned in relation to social inclusion policies.

Analysis of the use of the human rights framework and standards

The CRC provides a framework for the *Breaking the Cycle of Child Poverty Paper*, seeking to show how it can contribute to DFID's work on children, which is informed primarily by the MDGs, four of which refer explicitly to children: MDG2 (UPE), MDG3 (gender equality), MDG4 (child mortality) and MDG5 (maternal health).

There is little direct utilisation of the CRC in policy formulation. While the paper consistently sets out all the various aspects of the convention and how they may relate to children's rights, the paper does not discuss how DFID may ensure the protection of these individual rights. The paper instead focuses on PRSPs, SWAps and budget support as being able to ensure most children's needs.

Given the importance of the MDGs to DFID's objectives, and the relative prominence of children within these, particularly girls, it is surprising that children's rights do not have greater emphasis within DFID. The 2006 White Paper recognises specific human rights, such as the right to education and health, and highlights the obstacles that girls face in accessing related services, but does not explicitly frame such discussion in terms of children's rights. Whereas a human rights perspective is more clearly integrated in DFID work on maternal health (which includes references to

children), the link between children's rights (and the CRC in particular) and other key MDG areas, such as education, remains weak. This may in part be explained by the lack of technical capacity within DFID at headquarters (i.e. there is not a team or advisor specifically working on child rights). DFID has a secondee from Plan International (12 months from July 2007) to work on issues of children's and young people's participation and a recent study on child rights within DFID recommends that a further secondee to work specifically on child rights and child rights programming (Maguire, 2007).

Working with the FCO and others

Given that child rights are one of the FCO priority areas in its human rights strategy, this is a field where there is the potential for collaboration between DFID and the FCO. One of the FCO's specific objectives is to produce a strategy to give clearer focus to the FCO's work on child rights in 2006/8. Other objectives in this area include the implementation of the EU Guidelines on Children in Armed Conflict, increased ratification of CRC Optional Protocol 1 (including by UK) and increased ratification and implementation of ILO Convention 182 on worst forms of child labour.

To date, engagement between DFID and the FCO on children's rights issues has been mostly *ad hoc*. This is partially explained by the recognised leadership of FCO in this area, which has resulted in DFID taking a less active role. This is also a consequence of the need for DFID to prioritise the issues it works on and does not reflect a lack of commitment or interest on the part of DFID (interview). Interaction between DFID and the FCO has increased during recent consultations on the FCO Strategy on Child Rights (FCO HRDGG, 2007).

Contact between DFID and UN agencies on children's rights issues are equally, if not more, limited and are mostly confined to UNICEF via the PPA processes. More could be done to engage with relevant agencies on specific child rights issues, such as the ILO on child labour.

Right to development

Selection of relevant human rights standards

The **Declaration on the Right to Development (DRTD)** (1986) is a political statement rather than a legally binding treaty. It is also not a clear document and the Right to Development remains a controversial concept. Academic and inter-governmental processes have so far failed to agree a meaning around which consensus can be built and which would allow development practitioners to focus on the implementation of the right in development policy and practice.

Below is a summary of the key elements of the DRTD from Piron (2002).

Comprehensive development: The DRTD places the human person at the centre of development. Development is not defined solely in terms of economic growth, but as a 'comprehensive' and 'multi-faceted' process, with social, cultural, political, as well as economic, elements (Art. 2(1), 4(2), and 8(1)).

Respect for all human rights: The development process should be respectful of all human rights and fundamental freedoms, and help the realisation of rights for all (Art. 1 and 6). Failure to observe rights constitutes an obstacle to development (Art. 6(2)).

Participation: The DRTD requires that states and the international community formulate appropriate development policies. As the human person is at the centre of development, the processes through which such policies are developed should be participative (Art. 2(3)). The

right of women to participate, and the duty of the state to ensure their participation, is emphasised (Art. 8).

Social justice: The DRTD also requires that the development process promote social justice, including the 'fair distribution of the benefits' of development for individuals (Art. 2(3)), 'equality of opportunity for all' in access to basic resources and services, and the eradication of all social injustices (Art. 8(1)).

International co-operation: The realisation of the RTD requires not only appropriate national policies but also suitable international conditions for development, with appropriate international policies and co-operation (Art. 3 and 4).

Self-determination: The DRTD establishes that development 'implies the full realisation of the right of peoples to self determination' (Art. 1(2)). The provisions on self-determination have been interpreted by some not just to refer to a reaffirmation of the independence and equality of nations, but so as to strengthen the rights of persons belonging to minorities and indigenous groups to determine for themselves the processes and forms of development that are appropriate for their cultures and circumstances (Art. 5).

Document review

DFID does not have a policy document relating specifically to the right to development. The Human Rights TSP does make reference to the right to development in relation to consideration of the actions required by both the international community and national governments to achieve the progressive realisation of human rights. The definition of the right to development found in the DRTD is reiterated: 'an inalienable human right by virtue of which every human person and all peoples are entitled to participate in and contribute to and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realised' (p.17). Two further elements of the right to development are also highlighted (p.17):

- (i) 'The need for an environment of international co-operation which enables the development of all countries of the world'; and
- (ii) The obligations that the RTD establishes for national governments to support institutions and processes that ensure that poverty is eliminated.

Analysis of the use of the human rights framework and standards³⁸

There is no mention of the right to development in the three White Papers and only one paragraph relating to the right to development in the Human Rights TSP. DFID recognises that the DRTD forms part of the international human rights framework,³⁹ but the UK does not accept that any form of *legal* obligation to provide assistance in relation to the DRTD. This is consistent with the position taken by other donor countries and with international law (DRTD does not have the status of a legally enforceable treaty) (Piron, 2002). This position is reflected in the short discussion of the right to development in the Human Rights TSP, which recognises 'the need for an environment of international co-operation' but stresses the obligations that the DRTD places on national governments.

In a detailed analysis of the right to development for DFID, Piron (2002) suggests that, although DFID has not used the DRTD to guide its approach to development cooperation, this is generally consistent with the common interpretation of the right to development (e.g. importance of participation in the development process). In addition, Piron argues that the progressive nature of some of DFID's practices vis-à-

³⁸ This section is based solely on Piron (2002).

³⁹ The RTD is listed as a UN instrument that sets accepted human rights standards in relation to the right to development (HR TSP, Box 3, p.11).

vis other donors (for instance, its commitment to national ownership) means DFID could make a valuable contribution to the RTD debate and assist in developing a better dialogue with southern governments at the UN.

At the same time, Piron cautions that the right to development is a highly politicised issue and a legally-flawed concept with uncertain status in international law. The DRTD is a political, rather than legally binding, document and the discussion about the right to development within the UN have been extremely polarised e.g. the G77 and Non-Aligned Movement petitioning for a Convention on the Right to Development but not accepting a rights-based approach to development. It is highly unlikely that the UK would support the DRTD becoming a legally binding treaty (see below). Piron concludes that there is no clear benefit to DFID developing a position on the right to development or using it to inform policy and operational guidance and that other mechanisms (such as the Paris Declaration/aid effectiveness debate) are likely to be more effective in terms of forwarding the human rights and development agenda, and the good donorship agenda.

Working with the FCO and others

As formal lead on human rights in the UK's external relations, the FCO represents the UK in international discussions on the right to development at the UN, but takes advice from relevant departments (in particular, DFID). The current official UK position is that there is no internationally legally binding right to development. The UK abstained on the original vote on the 1986 Declaration on the Right to Development and has since expressed doubt as to the existence of the right to development. A primary concern for the FCO is that the right to development cannot be enforced and its existence therefore could undermine the integrity of the body of international law. A further concern is that the right to development is the aggregate of individual rights that national states – as the primary duty-bearer – have the duty to fulfil, rather than a collective right (of countries) that the international community bears responsibility to fulfil. The FCO works to ensure that nothing that is agreed is inconsistent with the current universally-agreed definition of duty-bearers and rights-holders and it is therefore highly unlikely that the UK would support the DRTD attaining Convention status (i.e. becoming legally binding) (Piron, 2002).

The 2002 Study on the Right to Development was commissioned by DFID to inform their potential engagement with the FCO and international debates on the right to development. International activity around this issue continues, with involvement of the FCO in Geneva. For instance a High-Level Task Force was established in 2004 within the Working Group on the Right to Development to make recommendations on the implementation of the right to development (e.g. Report from its Third Session, February 2007). The FCO consults DFID in relation to international discussions on RTD but there has not been systematic engagement between the two departments.

Annex 2: List of Documents Reviewed

UK policy and guidance

- Department for Constitutional Affairs (2006) *A Guide to the Human Rights Act 1998*. Third Edition.
- DFID, FCO and HM Treasury (2005) *Partnerships for Poverty Reduction: Rethinking Conditionality*. UK Policy Paper.

DFID policy and guidance

- DFID (1997) *Eliminating World Poverty: A Challenge for the 21st Century*. White Paper.
- DFID (2000a) *Poverty Elimination and the Empowerment of Women*. Target Strategy Paper.
- DFID (2000b) *Eliminating World Poverty: Making Globalisation Work for the Poor*. White Paper.
- DFID (2000c) *Realising Human Rights for Poor People*. Target Strategy Paper.
- DFID (2001a) *Making Government Work for Poor People: Building State Capability*. Target Strategy Paper.
- DFID (2001b) *The Challenge of Universal Primary Education*. Target Strategy Paper.
- DFID (2001c) *Eliminating Hunger: Strategy for Achieving the Millennium Development Goal on Hunger*. Target Strategy Paper.
- DFID (2001d) *Meeting the Challenge of Poverty in Urban Areas*. Target Strategy Paper.
- DFID (2002) *Breaking the Cycle of Child Poverty*.
- DFID (2003) Public Service Agreement 2003-2006.
- DFID (2004a) *Reducing Maternal Deaths: A Strategy for DFID*. Strategy Document.
- DFID (2004b) *Sexual and Reproductive Health and Rights*. Position Paper.
- DFID (2005a) *Girls' Education: Towards a Better Future for All*. Target Strategy Paper.
- DFID (2005b) *How to Note: How to Reduce Maternal Deaths: Rights and Responsibilities*.
- DFID (2005c) *Social Transfers and Chronic Poverty: Emerging Evidence and the Challenge Ahead*. DFID Practice Paper.
- DFID (2005d) *Reducing Poverty by Tackling Social Exclusion: A DFID Policy Paper*.
- DFID (2005e) *The Human Rights Act: Building a Culture of Respect for Human Rights in DFID: Guidance Note*. Produced by the Equity and Rights Team.
- DFID (2006a) *Urban Poverty and Slum Dwellers*. MDG Factsheet.
- DFID (2006b) 'Draft How To Note: Implementing DFID's Conditionality Policy'. DFID Practice Paper.
- DFID (2006c) *DFID Departmental Report 2006*.
- DFID (2006d) *Eliminating World Poverty: Making Governance Work for the Poor*. White Paper.
- DFID (2007a) *Gender Equality Action Plan 2007-9: Making Faster Progress to Gender Equality*. DFID Practice Paper.
- DFID (2007b) *Governance, Development and Democratic Politics: DFID's Work in Building More Effective States*.
- DFID (2007c) *Meeting Our Promises; A Third Update on DFID's Work in Water and Sanitation Since the 2004 Water Action Plan*.
- DFID (2007d) *Working Together for Better Health*. Policy Paper.
- DFID (2007e) *DFID Annual Report 2007*.
- DFID (2007f) *How To Note: Country Governance Analysis*. DFID Practice Paper.
- DFID, FCO and DEFRA (2006) *The Human Right to Water*. UK Statement.

- Piron, Laure-Hélène (2002) *The Right to Development: A Review of the Current State of the Debate for the Department for International Development*. Report for DFID.
- UK Government (2004) *Taking Action; The UK's Strategy for Tackling HIV and AIDS in the Developing World*.
- Willet, Andrew (2007) 'The Human Rights Act 1998: Potential Implications for DFID'. The Treasury Solicitor.

FCO documents

- FCO (2006a) *Active Diplomacy for a Changing World: The UK's International Priorities*. White Paper.
- FCO (2006b) *Human Rights Annual Report 2006*.
- FCO (2007) *FCO Departmental Report 2007*.
- FCO/HRDGG (2005) 'Strategic Priority 7: The Role of Human Rights, Democracy and Good Governance in Promoting Sustainable Development and Reducing Poverty'. 3 Year Strategy: 2005-8 (available at www.fco.gov.uk).
- FCO/HRDGG (2007b). *FCO Strategy on Child Rights*.

Other documents

- Maguire, Sarah (2007) 'A Study of the Child Rights Climate Within the UK's Department for International Development'. Draft report for DFID.
- Piron, Laure-Hélène (2004) 'Rights-based Approaches to Social Protection'. Report for DFID, ODI, London.
- Piron, Laure-Hélène and Watkins, Francis (2004) 'DFID Human Rights Review: A Review of How DFID has Integrated Human Rights into its Work'. Report for DFID, ODI, London.
- OECD Development Assistance Committee (2007) *Action-oriented Policy Paper on Human Rights and Development*. Paris: OECD.
- UN (1965) International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Adopted and opened for signature and ratification by General Assembly Resolution 2106 (XX).
- UN (1966) International Covenant on Civil and Political Rights (ICCPR). Adopted and opened for signature, ratification and accession by General Assembly Resolution 2200A (XXI).
- UN (1966) International Covenant on Economic, Social and Cultural Rights (ICESCR). Adopted and opened for signature, ratification and accession by General Assembly Resolution 2200A (XXI).
- UN (1979) Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).
- UN (1989) Convention on the Rights of the Child (CRC). Adopted and opened for signature, ratification and accession by General Assembly Resolution 44/25.
- UN Development Group (2003) 'Statement on a Common Understanding Amongst UN Agencies: A Human Rights Based Approach to Development Cooperation'. Statement agreed at the UN Inter-Agency Workshop on a Human Rights Based Approach to Development (Stamford, 2003), and endorsed by the UNDG Programme Group.
- UN Committee on Economic, Social and Cultural Rights (CESCR) (2003) General Comment No.15: The Right to Water. E/C.12/2002/11.

Annex 3: List of Persons Interviewed

Alison Kennedy, Policy Analyst, Equity and Rights Team
Amisha Patel, Policy Analyst, Equity and Rights Team
Babu Rahman, Principal Research Officer, International Security and Global Issues Research Group, FCO
Bea Parkes, Governance Advisor, Sustainable Development Group
Catherine Arnold, Social Protection Advisor, Equity and Rights Team
Dieneke Ter Huurne, Consultant Policy Advisor, Human Development Group
Deirdre Watson, Education Advisor, Education Team and Reproductive and Child Health Team
Helen Yaxley, Policy Analyst, Equity and Rights Team
Jackie Peace, Governance Advisor, Country-led Approaches and Results Team
Julius Court, Governance Advisor, Effective States Team
Kate McCleery, Assistant Legal Advisor, FCO
Katherine Ford, Governance Advisor, Effective States Team
Laure-Hélène Piron, Justice Advisor, CHASE
Leonard Tedd, Assistant Infrastructure Advisor, Policy and Research Division
Peter Ashman, HRDGG, FCO
Rosamund Ebdon, Social Development Advisor, Aids and Reproductive Health Team
Sarah Clayton, HRDGG, FCO
Sarah Maguire, Child Rights Consultant
Sylvia Bluck, Human Rights Workstream Leader, Equity and Rights Team
Tim Waites, Livelihoods Advisor, Growth and Investment Group
Trudi Kennedy, HRDGG, FCO

Annex 4: Millennium Development Goals

Goal 1. Eradicate extreme poverty and hunger

Target 1: Reduce by half the proportion of people living on less than a dollar a day

Target 2: Reduce by half the proportion of people who suffer from hunger

Goal 2. Achieve universal primary education

Target 3: Ensure that all boys and girls complete a full course of primary schooling

Goal 3. Promote gender equality and empower women

Target 4: Eliminate gender disparity in primary and secondary education preferably by 2005, and at all levels by 2015

Goal 4. Reduce child mortality

Target 5: Reduce by two-thirds the mortality rate among children under five

Goal 5. Improve maternal health

Target 6: Reduce by three-quarters the maternal mortality ratio

Goal 6. Combat HIV/AIDS, malaria and other diseases

Target 7: Halt and begin to reverse the spread of HIV/AIDS

Goal 7. Ensure environmental sustainability

Target 9: Integrate the principles of sustainable development into country policies and programmes; reverse loss of environmental resources

Goal 8. Develop a global partnership for development

Target 12: Develop an open, rule-based, non-discriminatory trading and financial system

Target 13: Address the special needs of the least developed countries

Target 14: Address the special needs of landlocked and small island developing states

Target 15: Deal comprehensively with the debt problems of developing countries

Target 16: Develop and implement strategies for decent and productive work for youth in developing countries

Target 17: Provide access, in cooperation with pharmaceutical companies, to affordable essential drugs in developing countries

Target 18: Make available, in cooperation with the private sector, the benefits of new technologies, especially information and communications

Annex 5: UN Common Understanding: Human Rights Based Approach to Development Cooperation

As part of a 1997 reform programme, UN agencies were called upon to mainstream human rights into their various activities and programmes, leading many to adopt a human rights-based approach to their development cooperation. A UN Interagency Workshop on a Human Rights-Based Approach was convened in May 2003 to develop a common understanding of a human rights-based approach to improve consistency within the UN.

This resulted in a Statement of Common Understanding based on three core principles (UNDG, 2003):

1. All programmes of development cooperation, policies and technical assistance should further the realisation of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments.
2. Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process.
3. Development Cooperation contributes to the development of the capacities of 'duty-bearers' to meet their obligations and/or 'rights-holders' to claim their rights.