

# DFID Human Rights Review

*A review of how DFID has integrated  
human rights into its work*

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The report was amended following discussion with DFID. However, it does not represent DFID policy.

# Foreword

This report is a detailed review, which documents DFID's human rights activities in a number of domains. It also draws together some of the findings relating to the "value-added" of human rights for poverty reduction, and makes a number of practical recommendations. It is not a "guidance tool" on rights-based approaches, nor an evaluation of DFID's work.

It is meant to serve as a reference document, and can be used for a range of purposes:

- For background on what human rights are and how they are relevant for aid agencies, see Section 2 on the framework and sub-section 6.2 on the value-added (and Annexes 5 and 8).
- To understand how human rights have been integrated by DFID in some of its policy and centrally-funded initiatives, see Section 3 (and Annexes 6 and 7).
- For ideas of ways in which a country programme can use human rights as an analytical tool and influence programming, see Section 4 (and Annex 9).
- For a range of sectoral / thematic examples of DFID's work on human rights, go to Section 5.
- For conclusions and suggestions on the way forward for DFID, see Section 6.

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# Acronyms

ADD	Action on Disability and Development
AMREF	African Medical and Research Foundation
BC	British Council
BiH	Bosnia Herzegovina
BLAST	Bangladesh Legal Aid Services Trust
CAP	Country Assistance Plan (DFID)
CAT	Convention Against Torture (UN)
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women (UN)
CERD	Convention on the Elimination of All Forms of Racial Discrimination (UN)
CHAD	Conflict and Humanitarian Affairs Department (DFID)
CRC	Convention on the Rights of the Child (UN)
CIDA	Canadian International Development Agency
CSCF	Civil Society Challenge Fund (DFID)
CSO	Civil Society Organisation
CSP	Country Strategy Paper (DFID)
CCA	Common Country Assessment (UN)
CTUC	Commonwealth Trade Union Council
DANIDA	Danish International Development Agency
DDP	Director's Delivery Plan (DFID)
DFI	Direct Funding Initiative (DFID)
DRC	Democratic Republic of the Congo
EC	European Commission
EU	European Union
ECA	Economic Commission for Africa (UN)
ECAD	Europe and Central Asia Department (DFID)
ECHR	European Convention on Human Rights and Fundamental Freedoms
EMAD	Europe, the Middle East and the Americas Department (DFID)
ETI	Ethical Trade Initiative (UK)
EU	European Union
ICCPR	International Covenant on Civil and Political Rights (UN)
ICESCR	International Covenant on Economic, Social and Cultural Rights (UN)
ICRC	International Committee of the Red Cross
ICSD	Information and Civil Society Department (DFID)
IDB	Inter-American Development Bank
IDEA	Institute for Democracy and Electoral Assistance
IDPs	Internally Displaced Persons
IDTs	International Development Targets
IHL	International Humanitarian Law
IFI	International Financial Institution
ILO	International Labour Organisation
IMF	International Monetary Fund
INGO	International Non-Governmental Organisations
IPEC	International Programme on the Elimination of Child Labour (ILO)
ISP	Institutional Strategy Paper (DFID)
JFS	Joint Funding Scheme (DFID)
MaSSAJ	Malawi Safety, Security and Access to Justice Programme (DFID Malawi)

MDGs	Millennium Development Goals
MEDA	<i>Mesures d'accompagnement</i> (EC Mediterranean programme)
MENAD	Middle East and North Africa Department (DFID)
MoU	Memorandum of Understanding
MTEF	Medium-Term Expenditure Framework
NEPAD	New Partnership for Africa's Development
NGO	Non-Governmental Organisation
NORAD	Norwegian Agency for Development
NOVIB	Netherlands Organisation for International Development
OECD	Organisation for Economic Cooperation and Development
ODI	Overseas Development Institute
OFCOM	Office of Communications (UK)
OHCHR	Office of the United Nations High Commissioner for Human Rights
OT	Overseas Territories (UK)
PEAP	Poverty Eradication Action Plan (Uganda)
PIMS	Policy Information Marker System (DFID)
PPA	Programme Partnership Agreement (DFID)
PRAMs	Participatory Rights Assessment Methodologies (DFID)
PRI	Penal Reform International
PRSP	Poverty Reduction Strategy Paper
PSA	Public Service Agreement (DFID)
RBA	Rights-Based Approach
RPU	Regional Policy Units (DFID)
RtVP	Reaching the Very Poorest Team (DFID)
SC-UK	Save the Children Fund-UK
SDA	Service Delivery Agreement (DFID)
SGA	Strategic Grant Agreement (DFID)
SHSLP	Shire Highlands Sustainable Livelihoods Programme (DFID Malawi)
Sida	Swedish International Development Agency
SLA	Sustainable Livelihoods Approach
SSAJ	Safety, Security and Access to Justice
SWAp	Sector-Wide Approach
TIG	<i>Travail d'intérêt général</i>
TI-K	Transparency International – Kenya
TMBs	Treaty Monitoring Bodies (UN)
TRANSFORM	Through Rights to Needs for Marginalised Malawians (DFID Malawi)
TSP	Target Strategy Paper (DFID)
TUC	Trades Union Congress
UDHR	Universal Declaration of Human Rights
UNDAF	United Nations Development Assistance Framework
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
UNDP	United Nations Development Programme
USAID	United States Agency for International Development
WTO	World Trade Organization

# Executive Summary

This review was commissioned by the UK Department for International Development's Reaching the Very Poorest Team in Policy Division. Its purpose is to gain a greater understanding of DFID's human rights work, drawing on a portfolio of activities that DFID supports. The focus is on lessons to be learned from experiences on the ground, covering a range of sectors and initiatives, in particular at country level. The review attempts to show how human rights can make a contribution to poverty reduction at the normative, analytical and operational levels. It concludes with a few forward-looking recommendations.

## I. Key findings of the review

There is a large body of work integrating human rights into development policy and programmes, supported by DFID at the international, national and sectoral / thematic levels, and in differing country contexts. There is also an important constituency of staff, across departments and professional backgrounds, with an interest in human rights and who are developing innovative approaches and activities. Various examples of this work are outlined below.

### Central level

- 1.1 Support to a number of international organisations, including in the areas of:
  - capacity for developing and monitoring international human rights standards (Office of the UN High Commissioner for Human Rights);
  - development of a UN common understanding on the meaning of a human rights-based approach to development, at the 2003 UN inter-agency meeting; and
  - practical implementation of human rights-based approaches in the UN (UNICEF) as well as by international NGOs (ActionAid).
- 1.2 Innovative research activities, often drawing on field experiences in country programmes and feeding directly into new strategies or interventions, in areas such as:
  - voice, participation and accountability;
  - linkages between livelihoods and rights;
  - making budgets transparent and participatory;
  - analysis of the relationships between rights, poverty, growth and inequality; and
  - new participatory tools (Participatory Rights Assessment Methodologies).
- 1.3 A range of policy developments to guide interventions, such as:
  - supporting the move within civil society away from solely a service delivery role, towards building local capacity for policy engagement, monitoring and advocacy;
  - a pro-poor approach to safety, security and access to justice; and
  - policy development on core labour standards and poverty reduction.

### Country level

- 1.4 Use of a human rights analysis to inform strategy and set overall objectives, such as:
  - using the three DFID human rights operational principles (participation, inclusion and fulfilling obligation), in particular highlighting social exclusion and inequality in Latin America (Bolivia, Brazil and Peru);
  - using gender equality and non-discrimination as overarching principles (Bangladesh); and
  - using an analysis of international human rights standards and reporting obligations (Overseas Territories).
- 1.5 Integration of human rights into country programmes, such as:
  - work on pro-poor governance and the development of rights-based sectoral interventions in health, education and livelihoods (Malawi); and
  - commissioning research on human rights and citizenship to inform the future direction of the country strategy and programme (Rwanda).



- 1.6 Integration of human rights into strategic aspects of programme delivery, such as:
- human rights dialogue in bilateral talks (China);
  - a Memorandum of Understanding outlining common commitments to the promotion and protection of human rights (Rwanda);
  - incorporating human rights into decisions on the use of aid instruments, such as in relation to direct budget support (Uganda); and
  - working with others, such as engaging with the European Commission in the Middle East and North Africa so that human rights play a fuller part in dialogue and programmes.

## Sectoral level

- 1.7 Supporting particular groups in claiming and enforcing their rights, such as:
- women, through supporting the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (China) and work with UNIFEM on gender and racism (Brazil);
  - children, through a process to develop a child protection strategy (Overseas Territories);
  - minorities, through work on social inclusion of the Roma minority (Eastern Europe);
  - indigenous peoples (Latin America);
  - workers, through substantial work on core labour standards, including support to the International Labour Organisation and work on child labour and child trafficking (India and South-East Asia); and
  - working on the ‘demand side’ of justice reform, by enabling poor people to know, claim and defend their rights through public information campaigns on land inheritance rights for women (Zimbabwe) or public interest litigation (Bangladesh).
- 1.8 Assisting social and political processes to make governments more respectful of the rights of citizens, such as:
- work with civil society, for example in a co-ordinated approach to civic education and women’s political empowerment (Kenya), or explicitly based on human rights principles (Bangladesh);
  - strengthening accountability through parliaments, including through improved engagement with civil society (Malawi);
  - support for electoral processes in many parts of Africa to promote free and fair elections;
  - support for the media, including radio as a source of information as part of peace-building (Democratic Republic of the Congo) and encouraging media self-regulation to balance freedom of speech with legitimate restrictions (Russia); and
  - public expenditure management, for example support for the right to participate in resource allocation decisions through district level monitoring committees (Uganda).
- 1.9 Assisting the state in respecting, protecting or fulfilling human rights, such as:
- focusing on poor people’s access to justice and undertaking sector-wide reforms in the security and justice sector (Malawi);
  - developing culturally relevant policies and systems to provide protection from domestic violence and child abuse (Jordan);
  - providing protection during and after conflict (funding a UN human rights presence in Iraq; support for the UN Special Representative of the Secretary-General on Children in Armed Conflict; and support for UNIFEM in protection of women in conflict situations);
  - developing rights-based approaches to health service delivery (Peru and Nepal); and
  - involving communities in school management and the monitoring of service delivery in Africa.

## 2. Value-added of human rights for poverty reduction

### Normative value

- 2.1 Human rights provide a normative framework, relevant for poverty reduction and the achievement of the Millennium Development Goals, setting out clear international standards and clarifying both the rights of individuals and the obligations of states, based on an international consensus. By setting minimum standards and highlighting basic dignity for all people, human

rights draw attention to issues of importance for poor people, and focus attention on discrimination and access to services for vulnerable and excluded groups.

- 2.2 The international human rights framework is also often reflected at the national and regional levels (for example, in Constitutions or domestic legislation). This provides the basis for establishing mechanisms that can hold state actors and others accountable for their actions.
- 2.3 A human rights-based approach aims to transform state-society relations, enhancing government accountability to the poor and empowering all citizens to claim their rights, thus strengthening the 'social contract'. People are placed at the centre of development processes, no longer seen as beneficiaries with needs, but as active citizens with rights and entitlements.
- 2.4 Human rights make a unique contribution to key policy debates, such as strategies to achieve the Millennium Development Goals, the relationship between growth and inequality, and the shift in civil society from a service delivery to an advocacy approach. A human rights perspective can lead to more effective poverty eradication – for example, by drawing attention to the fact that certain groups may be systematically excluded from the benefits of development due to discrimination.

## Analytical value

- 2.5 At a country programme level, human rights also provide an analytical framework that can help set development objectives and assist in identifying the causes and characteristics of poverty. For example, in Latin America, a human rights analysis has led DFID to identify inequality as a cause of poverty and a major barrier to poverty eradication, influencing the focus of country strategies.
- 2.6 A human rights analysis puts issues such as politics and power relations, state accountability, state-society relations, and genuine participation at the centre of country strategy and interventions.
- 2.7 Human rights provide a framework for identifying who holds specific obligations, and human rights standards (particularly at the national level) can assist in setting tangible benchmarks to be achieved. For example, constitutional standards may be used to specify minimum standards for service delivery and help identify which policies and institutions need reform.

## Operational value

- 2.8 Some of the operational implications of a human rights-based approach are similar to the key elements of 'good development practice', such as ensuring wide stakeholder participation. The value of applying human rights principles in this context is that they ensure a consistent focus on these elements, such as by articulating poor people's participation in development processes as an entitlement rather than a mere option.
- 2.9 A human rights perspective frames discussions around agreed (international, national and sometimes local) standards in a manner that can challenge the *status quo* at the operational level – for example, CSOs can appeal to such standards when lobbying for domestic reforms.
- 2.10 A human rights-based approach also highlights the importance of linking 'demand-side' efforts with 'supply-side' initiatives to build state capacity to respect human rights standards – thereby linking both social development and governance considerations around issues such as accountability.
- 2.11 Integrating a human rights perspective can influence the design of aid instruments to gain a sharper focus on outcomes for the poor, and consideration of negative as well as positive impacts of development assistance. It can encourage innovations that engage both donors and partner governments in an open dialogue around human rights.
- 2.12 In order to provide genuine operational value, the approach needs to be put into practice in a manner best suited to the local context, rather than by imposing external norms and values. This may require an implicit human rights analysis rather than an explicit advocacy stance, or working through international organisations rather than taking a bilateral approach.

## 3. Some possible future actions for DFID to consider

### Policy framework

- 3.1 Clarify the policy framework, possibly using the 2003 UN common agreement as a starting point, and reaffirm that the realisation of all human rights for all is fully part of DFID's overall corporate objectives alongside the realisation of the Millennium Development Goals.
- 3.2 Develop greater consistency of knowledge and application of human rights across the organisation, based on better learning from DFID's own experience of integrating human rights, and clearly communicating their 'value-added'.

### Learning from experience

- 3.3 Develop mechanisms to learn better and more systematically from DFID's ongoing activities, in particular:
  - between country programmes and across DFID more generally;
  - based on support for the UN and other international organisations; and
  - civil society – in particular international NGOs and research bodies.
- 3.4 Undertake reviews to synthesise knowledge to date in key areas (e.g. core labour standards) and areas not adequately covered in this report (e.g. humanitarian assistance).
- 3.5 Undertake work on human rights indicators and other ways of measuring progress.

### Consolidating guidance and policy development

- 3.6 Prepare practical guidance for staff based on:
  - DFID experiences and those of other organisations, particularly the UN;
  - making training available for staff and establishing a 'live' resource;
  - providing effective support to country programmes and policy teams; and
  - continuing to learn with external actors.
- 3.7 Areas for policy development and research to contribute to guidance include:
  - further exploring the progressive realisation and enforcement of economic and social rights, the relationship between human rights, growth and inequality, and the role of human rights in resource allocation;
  - seeing governance, including security and justice, sound public expenditure management and better linkages between demand and supply, as fully contributing to the realisation of all human rights for all; and
  - gaining a better understanding of experiences to date with the implementation of conditionality, and developing policy and guidance on human rights and aid instruments.

### Human rights obligations

- 3.8 Clarify DFID's own human rights obligations, in particular in the context of current international work on donor accountability and the UK Human Rights Act.
- 3.9 Promote an aid coherence agenda across Whitehall, which puts all human rights for all at the centre of the impact of UK policies on developing countries.



# SECTION I

## Introduction

### I.1 Background

Until the end of the Cold War, human rights and development were kept as separate domains. The 1993 Vienna World Conference on Human Rights was a turning point, recognising that: ‘Democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing’ and reaffirming that ‘extreme poverty and social exclusion constitute a violation of human dignity’ and that urgent steps were necessary ‘in order to promote the human rights of the poorest’ (UN, 1993). This conference marked the beginning of international recognition of the importance of all human rights (economic, social and cultural, as well as civil and political) for national development processes and the provision of international assistance, in particular the challenges of realising the economic and social rights of the poor.

From the late 1990s onwards, starting with the reform of the UN in 1997, a number of international development agencies and non-governmental organisations have attempted to integrate human rights or have officially adopted human rights-based approaches to development. This has included the development of new policy frameworks, organisational changes, and regional, country and local interventions,<sup>1</sup> some of which are now beginning to be reviewed or evaluated.<sup>2</sup> The UK Department for International Development (DFID) explicitly recognises the importance of human rights for poverty eradication and development, as set out in the 1997 and 2000 White Papers and in more detail in the 2000 Target Strategy Paper (TSP) on Human Rights.

### I.2 Purpose and methodology

This review was commissioned by the Reaching the Very Poorest Team in DFID’s Policy Division. The Terms of Reference (Annex 1) required the researchers ‘to conduct a review of practical experiences in implementing a rights-based approach to development, drawn from a portfolio of work supported by DFID’ and to address the following three areas:

- documenting country examples focusing on practical experiences (both positive and negative) of integrating rights into DFID’s activities;
- examining the ‘value-added’ of incorporating rights for poverty reduction; and
- synthesising the key lessons learned and recommending ways of taking forward rights work.

The methodology adopted has involved interviewing a range of DFID staff and programme implementers in London and overseas, complemented by a review of documentation (Annexes 2, 3 and 4). This is not a comprehensive review of all the relevant DFID activities. The focus has been on identifying a range of illustrative examples; there is certainly more to be learned from other DFID activities not covered here. In particular, DFID country-based partners, in both government and civil society, have not been consulted.

### I.3 Outline

Section 2 presents DFID’s policy and the conceptual framework for the study. Section 3 reviews how DFID has been integrating human rights at the central level, Section 4 focuses on approaches to

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<sup>1</sup> See in particular UN (1997); Sida (1997); SDC (1997); UNICEF (1998); and UNDP (1998).

<sup>2</sup> See for example Feeny (2003); Moser and Moser (2003); Piron (2003); and Piron and Court (2003).

country programmes (with more details in Annex 9), and Section 5 reviews a number of themes and sectors. Section 6 summarises the main findings of the study and makes a number of recommendations for DFID to consider. Annex 5 provides the full text of a recent UN agreement on human rights. Annexes 6 and 7 present analyses of the Human Rights and Governance TSPs and Annex 8 reviews key concepts.

## SECTION 2

# Conceptual Framework

## 2.1 International human rights framework

Human rights are defined in this review with reference to international human rights law, the body of law that deals with the protection of individuals and groups against state violations of their internationally recognised rights, along with the promotion of these rights. Human rights are rights that people have as individuals, not as citizens of particular states, and that the international community regards as a matter of international, and not just domestic, concern. They establish a normative framework for national development processes and international assistance.

States have obligations to respect, protect and fulfil these human rights,<sup>1</sup> and are regarded as ‘duty-bearers’, whereas individuals are ‘rights-holders’ with entitlements.<sup>2</sup> At the national level, human rights are referred to as ‘fundamental rights and freedoms’ and are protected in Constitutions, which can also contain ‘directive principles of state policy’ to guide the implementation of economic and social rights. Governments are to be held accountable for how they meet their obligations. In particular, individuals claiming that their fundamental rights have been infringed or threatened should be entitled to apply to a competent court for redress. Governments also have a duty to take appropriate and concrete steps, to the maximum of available resources, towards the progressive realisation of economic and social rights.

### Box 2.1: Human rights levels, standards and mechanisms

#### International level

- international customary law (e.g. prohibition of torture, or of apartheid as a ‘consistent pattern of gross violations’)
- declarations (e.g. Universal Declaration of Human Rights)
- binding international instruments (e.g. International Covenant on Economic, Social and Cultural Rights)
- international mechanisms (e.g. the Committee on Economic, Social and Cultural Rights)

#### Regional level

- African, American and European human rights conventions, commissions and courts

#### National level

- constitutional standards (e.g. ‘fundamental rights and freedoms’, ‘directive principles of state policies’)
- statutory legal standards (e.g. criminal, commercial, administrative, family law)
- non-state standards (e.g. religious law, customary law, ‘living law’)
- human rights accountability bodies (e.g. national human rights institutions, courts, NGOs)

The different levels from which human rights standards are derived, and applied, are summarised in Box 2.1 (adapted from Moser and Norton, 2001). A number of human rights principles can also be derived from this body of law, such as equality and non-discrimination. Human rights are promoted and protected through laws, policies and programmes that aim to meet these standards.

Human rights are thus a specific category of rights, and this body of international law establishes mechanisms, standards and principles that have domestic and local relevance. The challenge for international development agencies is how to help make these rights real for all people, in particular

<sup>1</sup> Respect: refrain from interfering; protect: prevent violations by others; fulfil: take appropriate legislative, budgetary, policy, administrative, judicial or other measures.

<sup>2</sup> There is a legal debate as to whether groups and communities, rather than individuals, can also be said to have human rights, and whether non-state actors, such as armed insurgents, can be said to have duties.

the very poorest and the socially excluded. The status of economic and social rights and entitlements, their justiciability, and resource implications pose some particular difficulties. Agencies also need to identify how applying a ‘human rights-based approach’ to their assistance contributes to more effective poverty reduction, taking into account the very rich diversity of cultural, social, economic, and political contexts, as well as the differences between national and local levels, and the wide range of potential partners.

## 2.2 Human rights-based approaches

The range of ways in which development agencies have integrated human rights into their work has led to some discussion over various approaches (see Annex 8 for details). The United Nations Inter-Agency Meeting held at Stamford, Connecticut, in May 2003 achieved a consensus on the key components of a ‘human rights-based approach to development’ (see key messages in Box 2.2 and the full text in Annex 5). The definition includes:

- the requirement for development assistance to contribute to the realisation of human rights as laid down in international law and international instruments;
- the use of human rights standards and principles at all levels of programming; and
- the provision of assistance to both those claiming rights (rights-holders) and those with rights obligations (duty-bearers).

### Box 2.2: UN common understanding on a human rights-based approach

1. All programmes of development co-operation, 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 co-operation and programming in all sectors and in all phases of the programming process.
3. Development co-operation contributes to the development of the capacities of ‘duty-bearers’ to meet their obligations and/or of ‘rights-holders’ to claim their rights.
4. The human rights principles identified in this agreement are:
  - universality and inalienability;
  - indivisibility;
  - inter-dependence and inter-relatedness;
  - equality and non-discrimination;
  - participation and inclusion; and
  - accountability and rule of law.

## 2.3 DFID’s Human Rights Framework

The 2000 Target Strategy Paper, *Realising Human Rights for Poor People*, sets out DFID’s human rights policy as follows: ‘The human rights approach to development means empowering people to take their own decisions rather than being the passive objects of choices made on their behalf. The objective of DFID’s Human Rights Strategy is to enable all people to be active citizens with rights, expectations and responsibilities’ and to ‘claim their rights to the opportunities and services made available through pro-poor development’. The TSP identifies three strategic aims, translated into operational principles, which ‘are central to the realisation of all human rights, and consequently to the realisation of the [International Development Targets]’. These principles, which are meant to guide programming, are the core of the DFID approach, and are referred to in this review as the *DFID human rights principles*.<sup>3</sup>

- **Participation:** actions to enable people to exercise their rights to participate and access information relating to decision-making processes.

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<sup>3</sup> The definitions used here are based on the TSP and on the guidance to score programmes (PIMS). See Annex 6 for examples of possible DFID interventions suggested by the TSP.



- **Inclusion:** building socially inclusive societies, based on the values of *equality* and *non-discrimination*. Actions to support the development and implementation of legislation, policies and programmes promoting equality of rights and addressing discrimination on the grounds of gender, race, ethnicity, age, disability, class or other social status.
- **Fulfilling obligation:** strengthening institutions and policies which ensure that obligations to *protect and promote* the realisation of rights for all are fulfilled *by states and other duty-bearers*. Actions to increase directly the *public accountability* of governments and other duty-bearers.

Within this framework, several *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*. The approach is to be applied to interventions as well as to how DFID operates. The TSP states: ‘We will integrate human rights into development work at all levels. Working towards the realisation of human rights for poor people is about how we do things, as well as our objectives. ... A rights approach means that development organisations should work in ways that strengthen the accountability of governments to people living in poverty.’

## 2.4 Conceptual approach to the review

In this review, a ‘broad’ understanding is adopted of what integrating a human rights perspective requires (see Annex 8 for details). As far as possible, the terms employed in the documentation reviewed are used, with particular attention to the *DFID operational principles* (italicised where possible) and their practical application. This is complemented by using the longer UN list of human rights principles (e.g. accountability and the rule of law) and the distinction between ‘rights-holders’ and ‘duty-bearers’, the latter more commonly referred to in donor agencies (without a human rights dimension) as the distinction between ‘demand’ and ‘supply’.

In addition, we have looked for explicit linkages to *human rights standards* and use of the international human rights *system*, as presented in Box 2.1, for example:

- the strategic use of the UN Treaty Monitoring Bodies by DFID or domestic groups;
- references to, and analysis of, specific articles of the main legally binding conventions;
- working with the regional human rights mechanisms, such as the Africa Commission;
- using constitutional standards to promote the realisation of economic and social rights, through legal, policy or administrative means, concrete entitlements, or cultural change;
- improving the performance or availability of human rights redress mechanisms; or
- supporting national human rights institutions.

In order to identify the ‘value-added’ of adopting a human rights perspective, namely, the contribution that taking a human rights perspective makes to the policy and practice of a development agency in the achievement of poverty reduction, a distinction was drawn between three different levels (adapted from Moser and Norton, 2001):

- **Normative:** Human rights standards and principles as set out in international law can influence the aim and content of development, and the approach and policy frameworks of aid organisations, establishing a normative framework of state obligations and entitlements.
- **Analytical:** Human rights help focus on the causes of poverty arising from non-respect of rights, such as unequal power relations or inappropriate policies that impede progress to poverty reduction, and provide a framework of analysis, based in particular on international standards and other legal norms. Such analysis can lead to a strategic approach to setting objectives for development assistance and in identifying interventions.
- **Operational:** Finally, human rights can also provide entry points for action by donors, government and civil society. In particular, they draw attention to the need to work both with rights-holders, to enable them to make claims, and duty-bearers, to enhance their capacity to meet their human rights obligations and to be held accountable.



## SECTION 3

### Overall DFID Trends

This section provides an overview of how DFID has been integrating human rights at its centre, looking at the levels of: policy; planning; centrally-funded initiatives, including partnerships with inter-governmental organisations, international civil society, and research; and institutional issues, including staff capacity and policy coherence.

#### 3.1 Policy

##### Policy framework

DFID's human rights policy framework is based on the 1997 White Paper, which mentions human rights as an element of the new 'partnership' approach to development and of an 'ethical' foreign policy, and explicitly advocates a 'human rights-based approach' to promoting core labour standards. The 2000 White Paper also states that DFID is adopting a 'rights-based approach'. The policy was set out in more detail in the 2000 Target Strategy Paper *Realising Human Rights for Poor People*. A number of sectoral or thematic TSPs, on such issues as governance, gender equality and education, also make reference to human rights.

DFID's Policy Division has a Senior Gender and Human Rights Adviser and a policy team whose responsibilities include looking at human rights from a multi-disciplinary angle – the Reaching the Very Poorest Team. A number of policy teams are currently engaged in (or planning) work on human rights. In the interviews for this review, the following were mentioned:

- *Reaching the Very Poorest* – engaging with the World Bank on social inclusion and power, consulting with UK-based civil society organisations, and networking with bilateral development agencies on rights;
- *MDG Maternal Mortality* – adopting a 'human-rights based approach', including an assessment of the 'value-added', a focus on the obligation of the state to take steps towards progressive achievement of the 'right to be free of avoidable maternal death', development of rights-based indicators and practical guidance;
- *Poverty Reduction in Difficult Environments* – on human rights indicators, sanctions and conditionality;
- *HIV/AIDS* – a new focus on discrimination and stigma;
- *Education for All* – collected examples of a 'rights-based approach' to education; and
- *Aid Effectiveness* – an interest in examining human rights and aid instruments.

In principle, the Human Rights TSP provides the overall DFID policy framework. A number of staff interviewed knew the document well and were using it in their work. However, there appeared to be a need for a clearer restatement and the preparation of practical guidance (see sub-section 3.4). For example, the Governance TSP seems, on the basis of interviews and documentation, to be not generally seen or used as a constitutive element of DFID's overall human rights policy, though it provides a significant number of explicit human rights references and covers key intervention domains (see sub-section 5.4 and Annex 7).

DFID staff have also expressed the need for clearer direction on the application of human rights in policy areas, for example with regard to the 'right to adequate food'. The 2002 Hunger TSP makes explicit reference to this right, grounded in international instruments and jurisprudence, focusing on the state's responsibility to take appropriate steps to ensure *access* to food and drawing out obligations falling on the international community (such as the impact of food aid and international trade). However, staff interviewed felt that DFID had not yet developed an operational understanding of this right. As a result, DFID staff have been unable to support inter-governmental discussions at the Food and Agriculture Organisation (on voluntary guidelines on the right to food) in a proactive manner, and

it was not clear whether or how the right to food should be mentioned in the recent Food Security Strategy for Southern Africa.

There are a number of areas where integrating a human rights perspective may change DFID's overall policy framework, or where debate may be needed to clarify the linkages. The review team was asked to examine the examples below which illustrate ongoing debates within DFID and also show how human rights 'add value' at the normative level, and how this may have analytical and operational implications.

## The Millennium Development Goals

DFID's overall objective is to contribute to poverty reduction and the achievement of the Millennium Development Goals (MDGs). Different views were expressed by those consulted in this review about how the MDGs relate to human rights. Some people noted that the MDGs are based on the outcomes of various UN social development conferences in the 1990s, which called for a 'people-centred' view of development (ESCAP, 2003). There are strong synergies between promoting the MDGs and promoting respect for human rights, for example the right to equal and universal access to primary education, which the education MDG also expresses in terms of universal entitlements. However, human rights and the MDGs are not identical frameworks. The Millennium Declaration provides a longer list of commitments that are not reflected in the MDGs, as do the various human rights instruments, such as binding conventions ratified by governments, which define the rights of individuals and groups, not proportions of world population as in the MDGs targets. The MDGs, on purpose, both cover a narrower range of themes and are global in their scope. They do not cover civil and political rights.

Given that the frameworks are not fully identical, some of those interviewed asked which should take priority in DFID, as they felt this was not clear. For some, human rights were seen as able to help achieve the MDGs but could be ignored if the financial costs of respecting them were too high. For others, the MDGs can help achieve the realisation of human rights, which is seen as the ultimate objective, for example by focusing attention on poverty as a source of rights violations. However, human rights and poverty reduction are 'interdependent and mutually reinforcing' (UN, 1993; UNDP, 2000). It would thus be useful for DFID to agree a clearer understanding of how human rights can be seen as both instrumental and constitutive of the goal of poverty reduction, and poverty reduction as essential for the universal realisation of human rights ('all human rights for all').

This theoretical distinction between the MDGs and human rights matters in practice for DFID programming, as the MDGs may create 'perverse incentives'. For example, one interviewee was concerned that focusing on reducing the proportion of people living in poverty could result in DFID's country programmes privileging work with those who are most easily able to become 'non-poor'; this would mean that work with the very poorest might not be prioritised. Another described DFID as focused on the education indicator of the gender MDG and as not having seen 'the CEDAW iceberg that is attached to it'; this refers to the wider range of economic, social, cultural and political transformation required to respect various standards set in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

## Growth and equity

DFID has adopted a policy of promoting 'pro-poor growth', but there is currently an ongoing debate in DFID as to what this means in practice. DFID's Growth Team, in a 2003 Briefing Note, argued in favour of using an 'absolute' definition, under which pro-poor growth does not necessarily imply a reduction in inequality; this latter is relevant only to the extent that it increases the growth of the average income of the poor. In contrast, a human rights perspective also highlights the importance of addressing inequality and promoting redistribution. A 'relative' definition of pro-poor growth may be better suited to taking account of how growth also impacts on inequality. Growth is here pro-poor if it also has a redistributive effect and if the incomes of the poor grow (proportionately) faster than those of the non-poor (Anderson *et al.*, 2004).

A recent Overseas Development Institute research project on Inequality in Middle-Income Countries commissioned by DFID argued for putting a stronger emphasis on inequality as a major policy concern, along with growth and poverty reduction. The discrimination and social exclusion strand of this study highlighted how a 'human rights-based approach' sees equality and non-discrimination as fundamental development objectives. There is also analytical value in understanding various types of

discrimination (which may be direct or indirect, official or social), as well as a practical value provided by a range of legal and other policy options, such as the importance of anti-discrimination legislation, human rights monitoring bodies and effective enforcement mechanisms as well as policies of 'affirmative action' (Anderson *et al.*, 2003).

## Donors' human rights obligations

### Box 3.1: Promotion of staff diversity in DFID

DFID, as an employer and government department, has obligations towards its staff to respect domestic equality and non-discrimination legislation and guidelines. The recent development and implementation of policies to improve practice has meant that DFID is paying closer attention to gender, age, disability, sexual orientation, ethnicity and race issues. A Diversity Audit was completed in 2002 and a Diversity Action Plan has been elaborated, which has led to the appointment of a Diversity Adviser. DFID fares well by comparison with other government departments in terms of its ethnic minority composition and has met its target in terms of women in top management posts. More can be achieved: women are still under-represented in senior positions and persons with disability are also under-represented at all levels of the organisation in comparison to national standards.

DFID has also adopted policies to improve the position of Staff-Appointed-In-Country, enabling promotion to professional grades and overseas postings. In addition, DFID has a HIV/AIDS Employment Policy which provides for full medical treatment for all employees on DFID contracts and their long-term partners for HIV/AIDS and related conditions where medical treatment is not available. This is supported by awareness training and counselling.

Finally, the issue about what are DFID's own human rights obligations does not seem to date to have been explicitly addressed. As a government department, DFID is subject to the obligations entered into by the UK government (which is a party to all the major human rights instruments) as well as to the 1998 Human Rights Act and other domestic standards. An example of obligations towards DFID's employees is provided by efforts to promote staff diversity (see Box 3.1). These reforms are important to ensure that DFID not only meets its obligations, but also is a credible advocate of anti-discrimination and, more generally, human rights reforms overseas.

The obligations DFID may have towards the people of the countries that benefit from its assistance have not yet been clearly identified. Though the Human Rights TSP states that 'development agencies should be subject to the same standards of transparency as governments', it does not specifically address the issue of accountability to assisted populations, including mechanisms to provide redress for violations resulting from DFID assistance (for example if forced displacements result from a DFID-funded project), and DFID has not yet systematised assessments of the human rights impact of its development programmes.

How best to develop donor-recipient relations based on 'partnership' and 'ownership' is part of the current aid effectiveness agenda, but also relates to donors' international obligations. A human rights perspective can strengthen such discussion, in particular by drawing attention to the importance of establishing reciprocal accountability mechanisms between donors and their partners, such as through better dissemination of donor financial information. With the increasing use of budget support, the distinction between the impacts of 'DFID only' money and of the action of partner governments is blurred. Interviews showed that it would be useful to clarify these issues, through work on aid instruments, constructive human rights dialogue, and working out how to balance these with capacity building support to help governments respect human rights (see sub-section 4.3 and Section 5).

Another aspect of the agenda regarding donors' obligations is the need for 'aid coherence' between all UK policies as they impact on developing countries (which may be undermined, for example by the negative impact of EU agricultural subsidies). However, aid coherence may also mean that aid needs to align itself with other UK policy objectives, such as international security; a focus on the human rights consequences of such interventions needs to be kept in mind.<sup>1</sup>

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<sup>1</sup> The importance of aid coherence, accountability of donor agencies, and 'partnership approaches' are key aspects of the debate on the right to development. For details see Piron (2002) and Piron *et al.* (2004).

## 3.2 Planning

DFID's planning system is based around achieving the MDGs which, as noted above, is not necessarily identical to helping countries meet their human rights obligations. The Public Service Agreement, through which DFID is held accountable to the Treasury, does not include an explicit human rights target; the nearest is the gender equality dimension of the education objective. The Service Delivery Agreement (SDA) is used to develop regional plans (Directors' Delivery Plans – DDPs), on the basis of which Country Assistance Plans (CAPs) are developed. In this sub-section, we review the three regional DDPs.

The SDA sets out general targets for improving the rights of the socially excluded in both Africa and Asia. There is no similar target for the programme in Europe, the Middle East and the Americas (EMAD). There is a somewhat different pattern of objectives and targets in the DDPs for the three regional departments. Human rights aspects are dealt with in the Asia and EMAD DDPs but seem somewhat more marginal in the Africa DDP.

### Asia DDP

The Asia DDP has an overall focus on *social exclusion* based on caste and gender. It states that social exclusion inhibits poverty reduction, and a commitment is made for all policies and interventions to promote greater inclusion.

In general, the DDP does not make use of human rights standards or principles; it does, however, use the DFID human rights principles (such as inclusion), as is reflected in various aspects of the proposed programme to promote the SDA objectives, including:

- increased support for 'deepening democracy, improving rights of the poor and socially *excluded* and reducing corruption', to be achieved through:
  - improved government transparency, accountability and greater participation of men and women through decentralisation, anti-corruption measures and public sector reform;
  - support to sustainable livelihoods, with particular attention to social, environmental and economic rights, protection of the poor and socially excluded, and participation of poor people in decision-making;
- *effective and equitable education* systems focusing on primary education and equitable access for girls and boys, to be achieved through:
  - support for poverty reduction strategies and education strategies with the explicit objectives of universal primary education and education for all, with an emphasis on quality, retention and access.

The indicators for these targets are set out as specific commitments, although the means of verification proposed tend to be somewhat vague. For example, with regard to supporting sustainable livelihoods, it is suggested that 'internal and independent assessments from civil society groups promoting rights and specific examples of effective work at the country level will indicate progress on programming in realising rights, equitable access and increased livelihood opportunities for the poorest, especially women'.

### Europe, Middle East and the Americas DDP

The EMAD DDP analysis uses human rights principles but makes no specific reference to human rights standards. The development challenge is set out as: extremely high levels of *inequality and widespread social exclusion*; and problems of governance, with *lack of respect for human rights*. The analysis of the Overseas Territories is the only place where specific problems of 'human rights challenges and issues of inequity' are highlighted. Apart from the analysis in the development challenge section, the approach is more piecemeal than that of the Asia DDP.

Nevertheless, the commitments are more specific in certain contexts, such as:

- the target of addressing the needs of vulnerable groups and tackling *inequality* in three priority middle-income countries, to be assessed through:
  - responsive public services and the security and justice sector in Jamaica;
  - social and economic reform in Romania; and

- the mainstreaming of social inclusion measures in policy and planning in Brazil, and promoting participation and equity concerns in financial institutions' strategies;
- the target of supporting policies and programmes to improve *governance*, including:
  - decentralisation, people's defender and 'social control' mechanisms in Bolivia; and
  - police and justice reforms in the Balkans and Russia.

Like the Asia DDP, although the specific commitments are clear, the means of verification are vague and general, suggesting in most cases that they will be 'assessed by country level data – annual review of DFID CAPs and by increased evidence of impact of DFID interventions'.

## Africa DDP

The Africa DDP analysis does not explicitly use a human rights approach and makes no direct reference to international or African human rights standards; indeed, the word 'rights' is only used in the analysis of safety, security and access to justice initiatives. There is no detailed discussion of issues of discrimination, social exclusion or inequality, even though social exclusion is mentioned in the SDA IIc targets.

Concerns for *political governance* under the same targets constitute the main focus on human rights in the Africa DDP. Recommended actions include:

- support for election processes, monitoring and respect for international and regional standards;
- the establishment of effective supervisory and watchdog bodies; and
- interventions to strengthen the ability of civil society to engage in constructive domestic dialogue and to empower poor people.

This target is to be measured by two indicators: improvements in public financial management and accountability systems, and a deepening of democracy and improvement in the rights of the socially excluded through countries' participation in the peer reviews, and the implementation of programmes to address these issues by the countries concerned, measured by the Freedom House Index and New Partnership for Africa's Development / Economic Commission for Africa Governance reports.<sup>2</sup>

Other areas where interventions could be consistent with a human rights perspective (though not explicitly presented as such) include gender equity in school enrolment, and focusing on human rights violations in the context of conflict-related activities.

## Country Strategy Papers/Assistance Plans

DFID central systems thus do not encourage a systematic focus on human rights standards in country-level planning, though the human rights principle of *inclusion* is noted, particularly in the Asia but also in the EMAD documents, as is governance, in particular in Africa, together with the associated principles of *participation* and *accountability*.

A review of Country Strategy Papers (CSPs) and Country Assistance Plans (CAPs) showed that human rights issues were not systematically analysed or addressed; nor are they explicitly monitored through CAP reviews. Guidance on the CAP process could be reviewed to identify how explicit human rights considerations at the level of country analysis, both from a human rights standards perspective and from a DFID principles perspective, could be undertaken. This could include advice on what information to use, and how to monitor country level progress.

## 3.3 Centrally-funded initiatives

DFID has supported a wide range of initiatives focused on human rights from centrally-managed funds. The present sub-section looks at the following areas:

- partnerships with inter-governmental organisations, in particular the UN;
- partnerships with and support for international and national civil society organisations; and

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<sup>2</sup> Freedom House is a US-based organisation that, since the 1970s, has developed quantitative indicators of civil and political rights. The New Partnership for Africa's Development has adopted peer review mechanisms on governance, and the UN Economic Commission for Africa is supporting this process.

- research and the development of tools.

## Partnerships with inter-governmental organisations

DFID has played a very important role in supporting the work of inter-governmental organisations on human rights – either by assisting them in further developing the implications of a ‘human rights-based approach’, or by funding activities directly relevant to the promotion and protection of human rights. This is generally done by developing partnerships through Institutional Strategy Papers (ISPs), which provide a framework for three to four years of assistance.

Work with the UN has been especially important and can be divided into two streams:

- support for the UN system generally on developing and operationalising a ‘human rights-based approach’, and in particular for UNICEF (see Box 3.2) as well as UNIFEM (see sub-section 5.1) and the International Labour Organisation (see sub-section 5.2); and
- support managed by the Global Institutions and Policy Team of the Conflict and Humanitarian Affairs Department (CHAD).

### Box 3.2: Support for a common UN approach and for UNICEF

DFID was one of the few donors that supported two UN inter-agency meetings at Princeton in January 2001 and Stamford in May 2003, aimed at establishing a common understanding among UN agencies of the critical elements of a ‘human rights-based approach’. The Stamford meeting was particularly important in achieving an inter-agency consensus (reproduced in Annex 5), which was subsequently adopted by the UN Development Group. This informed the redrafting of UN planning guidelines.

A key element of DFID’s work with the UN is the funding of a global programme aimed at developing a ‘human rights-based approach to programming’ in UNICEF. An initial phase of the support produced a staff training package. DFID is currently providing assistance to a second phase in which the package is being extended to regional teams and many country offices. DFID has also funded case studies of UNICEF’s experiences. DFID’s UNICEF Institutional Strategy Paper has also been used as an umbrella for developing closer relationships between the country offices of the two organisations, though this can prove a challenge on the ground. Discussions are currently underway about a possible joint evaluation study of working with human rights-based approaches at the country level.

CHAD manages a number of relationships with the UN and other organisations active in conflict and humanitarian assistance (including the International Committee of the Red Cross and the UN High Commissioner for Refugees, and the emergency activities of UNICEF and UNIFEM, described in sub-section 5.6). CHAD also manages the partnership with the Office of the High Commissioner for Human Rights (OHCHR). DFID has become one of the largest donors to the OHCHR, which acts as the secretariat to the international human rights system, and has helped it improve its management and fundraising capacity (see Box 3.3).

Though there has been a significant level and quality of support for the UN system on human rights, this is not reflected in the overall 1999 UN ISP, and assistance to different UN bodies has been split between different parts of DFID. In particular, an evaluation of the OHCHR ISP noted that basing support in CHAD seemed to be a consequence of historical events, rather than a strategic decision. Linkages between UN ISPs and country programmes are often particularly weak. DFID could do more to bring these streams of work together, and could learn more from the experiences of UN organisations. Work planned with UNICEF could provide an example.

### Box 3.3: Support for the UN Office of the High Commissioner for Human Rights

DFID has been one of the most important funders of OHCHR since the late 1990s. The UK (including DFID and FCO funding) was the top contributor for the 1996–98 period with \$18.10m. In 2002, the UK was the third largest contributor after the US and EC, with \$4.4m.



### Box 3.3: Support for the UN Office of the High Commissioner for Human Rights (continued)

In 1998, following large allocations from CHAD and the Africa Greater Horn Department for human rights presences in conflict situations, it was decided that DFID should develop a partnership with the OHCHR. The resulting ISP for 1999–2002 allocated £2m a year for three years. DFID assistance has focused on building up core OHCHR management systems, fundraising capacity, improvements to IT, as well as enhancing the capacity of some of its departments (for example support to the secretariat of the UN Treaty Monitoring Bodies). An independent review found that DFID had significantly helped OHCHR to get into a better position to seek money from donors, by improving its image and capacity to manage funds. As a result, donor earmarking has been decreasing. CHAD-led assistance, however, was not targeted to assist OHCHR develop policies and tools on human rights and development, and was not fully integrated with the rest of DFID's work on human rights. As a result, DFID policy departments and country programmes had very limited knowledge of OHCHR.

There were delays in developing a second ISP for the period 2003–06. Bridging assistance will continue to cover core systems, as well as a communication and media strategy to raise awareness of human rights, including with grassroots NGOs. This will also now include capacity to support UN country teams to integrate human rights.

DFID has good relations with the international financial institutions (IFIs), which face challenges in addressing the human rights agenda. For example, the World Bank has been arguing that its mandate restricts how far it can work on human rights, as the subject is seen as too political (World Bank, 1998). The Bank's Board also regards it as a difficult domain. However, DFID has been able to engage with the Bank. A research project commissioned from the Overseas Development Institute (ODI) on 'human rights, assets and livelihood security and sustainable development' aimed to provide inputs to assist the Bank's Social Development Director and the preparation of the 2002/03 *World Development Report* (Moser and Norton, 2001). More recently, DFID has funded work on social inclusion, empowerment and social accountability. Encouraging recent statements from the Bank in particular, but also from the International Monetary Fund (IMF), suggest that DFID should continue to pursue a policy of constructive engagement (Ingram, 2004; Enders, 2004). It has already designed programmes with the Inter-American Development Bank on indigenous peoples, which will serve to promote rights-based approaches (see sub-section 5.1).

## Partnerships with international civil society

DFID has traditionally had a close relationship with international non-governmental organisations (INGOs) based in the UK and through country programmes. This has been developed with a particular focus on 'rights-based approaches' (see sub-section 5.3). Here, we look at the centrally-funded partnerships, through Programme Partnership Agreements (PPAs), the Civil Society Challenge Fund (CSCF) and support for individual NGOs.

DFID has expanded its relationship with UK-based international NGOs, through the development of **PPAs**. To date fifteen PPAs have been negotiated with the following organisations: ActionAid, Action on Disability and Development (ADD), British Executive Services Overseas, Catholic Agency for Overseas Development, CARE, ChristianAid, Catholic Institute for International Relations, HelpAge, International Service, Oxfam, Save the Children-UK (SC-UK), Skillshare, Voluntary Service Overseas, WaterAid and the World Wildlife Fund. All of these PPAs in some way encompass human rights – either by adopting a rights-based approach and/or focusing on the rights of specific groups (see Box 3.4).

### Box 3.4: The Programme Partnership Agreements

Two different ways in which human rights are integrated in the PPAs can be highlighted. First, some make a general commitment to developing a **rights-based approach**:

- *ActionAid's* PPA states that it shares with DFID an analysis that a 'human rights-based approach' is a core element in the achievement of poverty elimination. Agreed actions include working together 'to test and develop ways of assessing the impact of rights-based policy and advocacy interventions and of capacity building work'.
- In the *ChristianAid* PPA it is stated that 'ChristianAid will focus on empowering civil society to lobby national governments to have a strong poverty reduction focus in their policies and to provide a means to keep governments accountable'. The specific activities of the organisation include skills development and capacity building of partners to work 'to promote the rights and needs of excluded people'.

### Box 3.4: The Programme Partnership Agreements (continued)

- The *CARE* PPA notes that the organisation has managed a number of DFID-financed country programmes with civil society in Bangladesh, South Africa and Tanzania. One of the objectives of the PPA is to advance development practice through the sharing of innovation, including on rights-based approaches and civil society.

Secondly, a number of organisations are committed to advancing **the rights of specific vulnerable groups**:

- The introduction to the SC-UK PPA highlights the fact that: 'All of Save the Children's work is underpinned by securing the rights of children' and that 'their practical experience of influencing policy and practice to achieve lasting benefits for children ... will contribute to the integration of a rights perspective into development as set out in the DFID Human Rights TSP'. The purpose is 'to use the strengths of the respective agencies to bring their influence to bear on all those who have a responsibility for the fulfilment of children's rights'.
- *ADD* has two main aims: to support organisations of disabled people in their campaign for their rightful inclusion in society; and to work with disabled people to influence development practitioners and policy-makers to include disabled peoples' rights and needs in their work. The PPA specifically supports the capacity building of disabled peoples' organisations to be able to campaign for the rights of all disabled people and work to influence the EU to adopt a cross-cutting disability policy.
- DFID works with *HelpAge International* as an umbrella organisation with 65 member organisations in 39 countries and 200 partner organisations in 90 countries. The purpose is 'to influence the development of policies and practices that promote rights and opportunities for older people and maximise their contribution to society'.

One of the aims of the PPAs is to encourage dialogue between the NGOs and DFID. The ActionAid PPA highlights the piloting of collaboration with DFID in East Africa, fitting existing project funding into a regional PPA. Country-specific agreements have been made between DFID and WaterAid in Tanzania and Nigeria. CARE has a significant role in managing a number of country-level funds to support civil society, such as in Bangladesh. SC-UK has highlighted good lines of communication with DFID's country programmes in East Africa. In Malawi, DFID works with OXFAM and CARE on three of its innovative rights-based service delivery programmes. However, the limited support that these activities have received from NGOs' headquarters so far has been noted as disappointing.

The Joint Funding Scheme (JFS), which ran from 1975 to 1999, was a significant source of funding for innovative practice amongst NGOs, and experience with the interventions it supported influenced the development of the **Civil Society Challenge Fund** (CSCF) in 1999. The CSCF aims to support initiatives that strengthen the capacity of poor people, living within eligible countries, to understand and demand their rights (civil, political, economic and social) and to improve their economic and social well-being. Its guidelines suggest that: 'Successful initiatives will empower poor people, strengthening their ability or opportunity to speak for themselves, do things for themselves and make demands of those in power'.

The key differences from the JFS are the emphasis on working with a wider range of civil society organisations (CSOs) and the capacity building of southern partners rather than direct implementation by UK-based NGOs. The CSCF remains an important portfolio of NGO work that fosters innovation and aims at the dissemination of good practice. Work is beginning on taking an overview of the fund's portfolio, and annual updates have identified human rights activities (see Box 3.5).

### Box 3.5: Civil Society Challenge Fund: rights work in Southern Africa, Peru and India

The recent annual update for **Southern Africa** emphasised that all nine projects supported in the region contributed to the objective of pro-poor policy reform. It highlighted in particular the work of the Commonwealth Trade Union Council in Botswana, Namibia and South Africa in mobilising trade union organisations to participate in the campaign to secure ratification and implementation of ILO Convention 182, aimed at eliminating the worst forms of child labour.

Recent review visits to projects in **Peru and India** demonstrate the consistency of the projects funded by the CSCF with the country strategies and highlight the close links with country programmes. In India, the DFID country office is drawing on the experience of the CSCF-funded projects in the development of its own work with civil society. In Peru, the DFID office is closely involved in the selection of projects to be funded by the CSCF. In both cases the DFID country programmes have used the experiences of CSCF-funded projects to inform the development of country office-funded interventions focused on human rights: in India through projects working in States such as Bihar and with scheduled tribes and castes, and in Peru in work in health and justice.

In addition to support for INGOs through PPAs and the CSCF, DFID has provided central support to international and national NGOs through smaller funds, such as the Human Rights Innovation Fund managed by the former Social Development Department (see Box 3.6), and directly around issues such as core labour standards (see sub-section 5.2).

### Box 3.6: Human Rights Innovation Fund

The fund was operational around 1999–2001, but lessons have not been synthesised. Work supported includes:

- *ADILISHA* – a project to strengthen the campaigning and organisational capacities of human rights organisations in Southern Africa using a mixture of regional workshops and computer-based distance learning methods ([www.fahamu.org.uk/rights/adoverview.html](http://www.fahamu.org.uk/rights/adoverview.html)).
- *HURIDOCs* – a training and capacity building project to develop and promote the use of tools and resources for monitoring violations of economic, social and cultural rights ([www.huridocs.org](http://www.huridocs.org)).
- *Centre on Housing Rights and Evictions* – core contribution to this international organisation, whose aim is to promote and protect the right to housing for everyone, everywhere, guided by international human rights law ([www.cohre.org](http://www.cohre.org)).
- *PRAWA* – A Nigeria-based penal reform NGO to undertake regional work in West Africa on victim-offender mediation and restorative justice ([www.ngprawa.org/prawa](http://www.ngprawa.org/prawa)).

## Research and new tools

DFID has also funded a number of research initiatives on human rights. The Development Research Centre on Citizenship, Participation and Accountability at the Institute for Development Studies (IDS) at Sussex University is the largest programme (see Box 3.7).

ODI has also carried out a range of commissioned work relating to human rights, available at [www.odi.org.uk](http://www.odi.org.uk), including:

- on the integration of a sustainable livelihoods framework with human rights, in particular *To Claim our Rights* (Moser and Norton, 2001), as well as a number of electronic practical resources on this issue through the Livelihoods Options study;
- on the relevance of rights and entitlements in budget processes, in *What's Behind the Budget? Politics, Rights and Accountability in the Budget Process* (Norton and Elson, 2002); and
- in response to a request from OHCHR and the Foreign and Commonwealth Office (FCO), a case study on the right to development in Uganda has also been commissioned (Piron and Afako, forthcoming 2004). This builds on an earlier study reviewing the right to development debate, commissioned to help DFID provide the FCO with guidance on its position on this topic (Piron, 2002).

### Box 3.7: IDS Research Centre on Citizenship, Participation and Accountability

DFID has funded six Development Research Centres to support leading-edge research on key issues in international development. The Centre on Citizenship, Participation and Accountability at IDS (£2.5m., 2001–2005) is aimed at research around the construction of new forms of citizenship that will help make rights real for poor people. The centre uses an approach that combines research, capacity building, dissemination and policy influence and is a partnership between research institutions from around the world. It brought together: researchers from university departments, NGO networks and independent think-tanks in working groups and comparative research programmes.

The starting point has been research aimed at understanding the perceptions of poor people themselves. Current research has been organised into three research programmes, designed to encourage common comparative frameworks linking ongoing projects in nine countries:

- *realising rights and claiming accountabilities* – drawing together research in Mexico, India, the US, Nigeria, and Bangladesh on how poor and marginalised groups can use mechanisms of accountability for state, corporate and civil society actors to realise rights;
- *spaces for change* – the politics of representation in ‘new’ participatory arenas – bringing together research from Mexico, Brazil, South Africa, Canada, India and Bangladesh to explore the politics of participation in institutions created for citizen participation in health policy; and
- *citizens and science in a global context* – drawing on research from South Africa, Brazil, India, and the UK to examine how citizens can influence and control knowledge around science in the contexts of campaigns on the environment, HIV/AIDS, and vaccination.

### Box 3.7: IDS Research Centre on Citizenship, Participation and Accountability (continued)

The Centre has produced a range of publications available through its website (<http://.drc-citizenship.org>). In addition, BRIDGE at IDS in collaboration with the Centre has recently produced resources looking at gender and citizenship ([www.ids.ac.uk/bridge/reports\\_gend\\_CEP.html](http://www.ids.ac.uk/bridge/reports_gend_CEP.html)).

The Participatory Rights Assessment Methodologies (PRAMs) project was conceived as part of the response to the challenge of operationalising DFID's Human Rights TSP. It is being managed by the Centre for Development Studies at Swansea University. Work is under way to develop guidelines and tools for use more generally and wider dissemination (see Box 3.8).<sup>3</sup>

### Box 3.8: Participatory Rights Assessment Methodologies

Information on the project can be found at [www.swan.ac.uk/cds/research/PRAMs/index.htm](http://www.swan.ac.uk/cds/research/PRAMs/index.htm). Phase I of the project was piloted in four countries (Malawi, Peru, Romania and Zambia). The aims of PRAMs have been to facilitate:

- people's own identification and assessment of their rights;
- understanding and agreement between stakeholders of the obstacles poor people face in accessing those rights;
- identification of actions to support governments and other duty-bearers in the protection, promotion and realisation of human rights; and
- institutional change and the opening up of new channels of institutional engagement between citizens and duty-bearers.

Whilst the work in Romania and Zambia has not carried on into Phase II of PRAMs, that in Malawi and Peru has become an important part of the two country programmes (see sub-sections 4.2 and 5.7.).

## 3.4 Institutional issues

### Staff capacity and perceptions

The issue of organisational arrangements and senior level leadership on human rights is one that deserves further examination. The integration of human rights into DFID's work also requires sufficient capacity within policy teams, and adequate support for country programmes. It also requires that DFID staff outside the policy teams have an adequate understanding of policy and the necessary skills and tools to integrate human rights into their work. Findings from over 50 interviews and the documents review seem to indicate the following.

There are clear positive findings in terms of capacity and understanding. In particular, there is an important constituency of professional advisers with an explicit interest in human rights, who have designed innovative programmes and approaches. A number of them found the Human Rights TSP useful and had used the DFID operational principles in their programming. To a significant degree, this constituency shares a desire for greater clarity on policy from senior management, the provision of practical guidance, and the availability of training.

The majority of these advisers are from the social development cadre, though there were examples of livelihoods and governance advisers or programme managers with human rights interest. The 'overlap' of responsibilities and different analytical approaches may at times have caused difficulties, but this did not seem to be an insurmountable problem. Malawi provides a good example of collaboration leading to an innovative country programme (see Box 3.9), and there has been research on the links between livelihoods and rights (see sub-section 5.8).

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<sup>3</sup> A separate report has been produced to summarise the project and lessons to date. As a result, PRAMs work is not reviewed in detail in this report. See Brocklesby and Crawford (2004).

### Box 3.9: Collaboration between advisers in Malawi

Malawi is one of two DFID country programmes to have had a designated 'International Conventions and Covenants Adviser' during 2000/01 (the other being Zambia). The adviser had a background not just in human rights, but also in law, gender and social development, which facilitated her acceptance into the programme. She was later appointed as a Senior Governance Adviser, which further facilitated collaboration across the governance-social development spectrum. As well as a cross-cutting Social Development Adviser, an extra hybrid post was created between social development and governance to lead the 'voice, accountability and rights' portfolio (although officially located in the social development cadre as an Assistant Social Development Adviser). Following the departure of the Senior Governance Adviser, the post was left unfilled for nearly a year, during which time the Assistant Social Development Adviser took responsibility for some of the 'governance' activities, which further broke down barriers.

This understanding and interest in human rights is not, however, widespread across the organisation. A few staff interviewed seemed uninterested, unaware, or even critical of human rights (and some requests for interviews were rejected on these grounds). The approach was seen by some as self-righteous at times, or not very different from good development practice. Some staff interviewed did not know or use the TSP, and many felt its status was unclear. In general, only very few had a technical human rights background or skills. Finally, though the intention of DFID policy is to promote a focus on all human rights for all, and to rebalance the agenda in favour of economic and social rights, there was a perception on the part of some of those interviewed that human rights were solely civil and political issues.

This indicates that there is a constituency in DFID who would like to see a clarification of the policy framework, with practical guidance and further training. In addition, there seems to be a general need to make the content of the policy framework and its practical implications clearer.

## Policy coherence

This review did not look in detail at the collaboration with other UK government departments on human rights issues; this will be needed to understand how DFID influences the overall impact the UK government may have on the countries it assists. Issues which might be covered by such a review could include trade, arms sales, migration and refugees.

Engagement with the FCO, which takes the overall UK lead on human rights, is essential and is happening at a policy level. However, DFID may lack some of the skills/resources necessary to provide inputs to advise the FCO, for example on international human rights negotiations. Examples of country-level collaboration with the FCO emerged during the review. The FCO and DFID recently produced a short paper highlighting where there had been collaboration on environmental governance and human rights, including Namibia, Zambia, Ethiopia, Kenya, Malawi, Democratic Republic of the Congo, Ghana, Bolivia, Bangladesh and Cambodia.

The review of work on elections and human rights dialogue also provided examples of country-level relations in Africa, such as in Ethiopia, Kenya, Rwanda or Uganda. Here there are sometimes tensions between FCO and DFID views, with the former appearing to privilege civil and political rights to a greater extent. It would be useful for DFID to obtain a greater understanding of patterns of country-level collaboration, identifying mechanisms of good practice, as is provided by the example in India (see Box 3.10).

### Box 3.10: A common UK government approach in India

In India, the British High Commission, the British Council and DFID have produced a paper summarising a common approach to human rights. Objectives are:

- to use the range of UK instruments to support India in narrowing the gap between the spirit and implementation of the UN Rights Conventions in India (civil, political, economic, social and cultural);
- to reduce political and social exclusion by supporting efforts in India to enable the poor and marginalised to realise their basic rights; and
- to promote the UK as a committed defender of human rights.



## SECTION 4

# Integration into DFID Country Programmes

A number of country programmes have integrated human rights, some explicitly adopting a ‘rights-based approach’, to provide both a framework for analysis and a means of identifying issues and problems which will help set programme objectives. Two different approaches can be identified and are discussed here:

- **Strategic approach** The human rights situation is used as a starting point, on the basis of either significant field experience and/or detailed background analysis, and provides the basis of the country strategy.
- **Integrative approach** Human rights are integrated into the country programme, but not necessarily in a systematic manner, for example to identify human rights-specific interventions and the links and gaps between them, and to influence future decisions.

Human rights considerations are also a significant part of aspects of programme delivery, such as in dialogue with governments, or in the choice of aid instruments or partners.

## 4.1 Strategic approaches

The strategic approach can be illustrated by a number of examples: the background and content of the Country Assistance Plans in Latin America; detailed background analysis in the Overseas Territories; and the use of experience in gender mainstreaming in Bangladesh.

The **Latin American** programmes have developed either from a focus on mainly environmental issues, as in Brazil, or from diverse, small-scale programmes, as in the cases of Peru and Bolivia, and have been marked by a shift to a greater poverty focus followed by a human rights focus. Recent developments reveal a common focus on prioritising *social exclusion and inequality* concerns, one of the three DFID human rights operational principles (see Box 4.1 and Annex 9). There is a discernible Latin American approach:

- building on existing partnerships and credibility gained through previous work experiences;
- beginning to tackle difficult issues of inequality and social exclusion;
- aiming to strengthen society-state relations as the basis of a country strategy; and
- using the human rights analysis to guide strategic choices in the development of programmes.

### Box 4.1: The strategic approach in Latin America – Bolivia, Brazil, and Peru

#### **Bolivia**

DFID built up experience by supporting civil society’s contribution to the National Dialogue (the consultation process for the development of the Poverty Reduction Strategy Paper (PRSP)). In addition it has contributed (with other donors) to supporting the Public Defender, a mediatory space between government and civil society. DFID supported the consultation process for elaborating the PRSP in which the issues of poverty, inequality and social exclusion were highlighted. The involvement with civil society and the calls for democratic and governance reform are joint priorities in DFID’s support to the implementation of the PRSP. The goal of DFID’s future strategy is that state and society should work together to achieve sustainable poverty reduction, the purpose being to support the implementation of the PRSP, with the specific aim of bringing a strong rights-based focus to development and promoting the inclusion of the excluded throughout the programme.

#### **Brazil**

DFID had links with social movements before the elections in 2001, which tied in with the analytical work begun on inequality in the elaboration of the new CAP. The initial consultations revealed clear linkages between reducing inequality and poverty reduction. Further analysis into the causes of inequality highlighted gender, race, ethnicity, location, age and disability, the first four of which were used to guide the development of the programme. The CAP has three outcomes: participation in economic activities, reduced institutional discrimination, and more responsive public service allocation and delivery.

#### Box 4.1: The strategic approach in Latin America – Bolivia, Brazil, and Peru (continued)

##### Peru

In 2001 DFID Peru carried out, jointly with the World Bank, a Participatory Poverty Assessment – the Voices of the Peruvian Poor – which, with subsequent analysis, highlighted the contribution of deep social divisions to continued inequalities. The assessment highlighted the need for a more responsive and accountable government. Working together with local partners who shared a commitment to rights-based approaches, DFID analysed the ongoing democratic and pro-poor forces and used them to develop proposals in their support. The draft CAP has as one of its outcomes the principle of *social inclusion*, and *strengthening society-state relations* as the basis of the country strategy.

A variation on the strategic approach described above is found in DFID's work in the **Overseas Territories**, which stand out in the Director's Delivery Plan for the Europe, Middle East and Americas Division as having the only direct mention of human rights standards (see sub-section 3.2). The background work carried out had the potential to provide an overarching framework for the regional programme as a whole, but the approach finally adopted has been to take up the recommendations from this first phase in a somewhat more piecemeal manner. This has resulted in the focus on human rights being treated as a separate intervention, a subset of the focus on supporting governance (see Box 4.2).

Whereas the Latin American programmes prioritise a 'rights-based approach' based on DFID's operational principles, the strategic approach in the Overseas Territories starts with an analysis of how international standards are being respected, going beyond the state's human rights obligations of equality and non-discrimination. It is a useful example of how the examination of international commitments, national legislation and the mechanisms (or lack of mechanisms) for ensuring human rights enforcement and reporting can inform a regional or country strategy.

#### Box 4.2: Human rights analysis for the Overseas Territories

Concerns about the human rights situation in the Overseas Territories had been raised for some time by both DFID and the FCO, in particular about domestic violence and child abuse, which raised further concerns that CEDAW had not been fully extended to the territories and that there was a lack of clarity in reporting on the Convention on the Rights of the Child. The 1999 White Paper *Partnership and Prosperity for the Overseas Territories* clarified the UK government responsibility for security and good governance in the territories, highlighting the need to extend international conventions. DFID commissioned a series of visits to all of the territories in 2001–02, the aim being to initiate a dialogue on human rights perception, practical difficulties, the roles of civil society and the UK government.

The final synthesis report highlighted a number of human rights issues of immediate concern, specifically: discrimination against migrants and the unfair treatment of illegal migrants; human rights abuses amongst children; and the need for concerted action on HIV/AIDS. Suggestions for taking forward the realisation of human rights were:

- the funding of a cross-territory conference with the specific aim of facilitating a cross-territory agreement on a human rights strategy;
- the appointment of human rights officers for the Caribbean territories;
- funding support for legal drafting in Attorney Generals' offices; and
- training and technical assistance for Human Rights Committees.

Rather than taking the holistic approach proposed by the consultants in the initial phase of dialogue, DFID has focused on one of the issues of immediate concern, through the development of a Child Protection Strategy, and is to proceed with the appointment of a Human Rights Adviser for the UK Overseas Territories (see sub-section 5.1).

A final variation of the strategic approach has been the identification of the rights of a specific group as being of importance to the country programme as a whole. In the case of Bangladesh and Pakistan, this has been the issue of gender equality. The approaches are somewhat similar:

- in Bangladesh, DFID has a clearly stated strategy, outlined in the CAP, of 'women and girls first', a strategy reflected in a gender focus in all its programmes and projects (see Box 4.3);
- in Pakistan, DFID has taken a more opportunistic approach, looking for opportunities to engage in strategic issues such as political empowerment and domestic violence, and making a long-term commitment to tackling them (see sub-section 5.1).

The approach in **Bangladesh** can be termed strategic on the basis of the importance given to the rights of a specific group, in this case women and girls. This perspective of the need to prioritise



support for certain groups in order to tackle existing inequalities immediately has been recognised for some time in gender mainstreaming. It is a way of both concretising DFID's human rights principle of inclusion, including respecting the UN human rights standard of non-discrimination, and assisting the implementation of international instruments, for example the Convention on the Elimination of All Forms of Discrimination Against Women (see also sub-section 5.1).

#### Box 4.3: Gender equality in Bangladesh

As set out in the Bangladesh CAP, gender inequality is an issue of major importance in South Asia as a whole and in Bangladesh in particular. The analysis in the CAP highlights the fact that: 'Gender inequality in Bangladesh constrains progress towards achieving the Millennium Development Goals', a similar analysis to the link made between reducing inequality and reducing poverty in Latin America (see Box 4.1). It is further stated that 'DFID has concluded that in the light of the broadly experienced failure of poor women and girls to benefit fully from development in the past, all future programmes should focus on this issue in support of the I-PRSP objective to advance the position of women'. Gender equality is integrated into all programme priority areas, including:

- specific interventions to benefit women and girls – supporting a comprehensive rights-based approach to maternal mortality reduction, and improved access for women and girls to food, safe water and hygiene;
- interventions to include women – supporting a strengthened enabling environment that helps enterprises to create more and better jobs for the poor, especially women;
- interventions to be generally inclusive – supporting comprehensive and national programmes for Universal Primary Education and Education for All;
- supporting more effective demands by pro-poor groups for resources, services and realisation of rights; and
- supporting action to make the public sector more accountable and responsive to the interests of poor people.

## 4.2 Integrative approaches

Another set of country experiences can be described as 'integrative', in that various ways of using human rights considerations at various levels have been adopted, but do not necessarily provide overall guidance for the direction of the country programme, namely:

- relevant activities at different levels of the programme in Malawi;
- human rights as one of three cross-cutting themes in the programme in China; and
- human rights included to encourage more analysis and influence the future direction of the CAP and dialogue in Rwanda.

In **Malawi**, human rights have been integrated in various ways in the DFID country programme, for example: human rights analysis; developing 'learning' projects adopting a participatory 'rights-based approach' (including serving as a PRAMs pilot); using constitutional standards in the reform of the justice sector; and developing a 'voice, rights and accountability' portfolio (see Box 4.4). However, they are not yet fully linked strategically, though cross-programme 'synergy meetings' are now taking place.

#### Box 4.4: Various human rights activities in Malawi

The origin of the integration of human rights in the DFID Malawi programme dates back to a favourable environment in the post-Banda transition, with a vibrant national interest in multi-party democracy, constitutionalism and active civil society. DFID commissioned analytical research and appointed a Human Rights Adviser, who initiated a number of project designs based on a human rights analysis.

The April 2003 CAP is based on Malawi's Poverty Reduction Strategy. It notes that successful implementation of the PRSP 'will hinge on supporting poor people to have a greater voice in defining their experience of poverty and realising their basic rights'. The overall CAP rights-based strategy is not fully explicit, but can be described as:

- improving the responsiveness and accountability of the state to citizens (elections, parliament and other accountability institutions);
- improving the capacity of the poor to define, understand and demand their rights (in a number of sectors such as health, education or livelihoods); and
- support to CSOs to provide a link between community-based, demand-side interventions and supply-side institutional support.

#### Box 4.4: Various human rights activities in Malawi (continued)

Key aspects of the programme include:

- Some interventions support legal and political reforms, which aim to clarify and protect people's rights by reforming state institutions, such as assistance to parliament or the Malawi Safety Security and Access to Justice (MaSSAJ) programme, which uses constitutional standards in some interventions.
- 'Rights-based approach' learning projects in health and livelihoods emphasise a highly participatory and community-based understanding. The education sector has a PRAMs pilot (see Box 5.31). Following these learning projects, the challenge is to get the learning adopted by full sector programmes.
- The importance of 'linking demand and supply sides' is illustrated by the Shire Highlands Sustainable Livelihood Programme linking poor people's capacity to demand their rights with that of district-level service providers to provide resources and services in a transparent manner. The importance of balancing supply and demand was indicated by the 'negative' lessons of the TRANSFORM project (see Box 5.10).

In the **China** programme, DFID's human rights principles, in particular participation, gender equity and social inclusion, but also obligation, are applied as cross-cutting themes (Box 4.5).

#### Box 4.5: Human rights principles as cross-cutting themes in China

The current CSP notes progress on economic and social rights but less progress on civil and political rights. It suggests that there is a need to encourage the development of civil society in China. Three cross-cutting themes are to be integrated into the country programme, broadly drawing on the principles of the TSP:

- effective pro-poor government policies and initiatives;
- participation of poor people in decision-making; and
- tackling social exclusion and promoting gender equity.

Pro-poor policy comes under the principle of fulfilling obligation, with the specific strategies of equitable and transparent resource allocation and building capacity for better quality and more accessible service delivery.

The analysis of the existing programme has used human rights principles to identify existing entry points, potential for new work and areas for future development. It is looking for interventions at both: the strategic level, such as work with UNIFEM on CEDAW reporting and bilateral dialogue; and within existing activities, such as work in health on new approaches to HIV/AIDS and in education on access and gender equity.

Finally, another approach has been to include human rights standards in the CAP analysis to influence future programming. In **Rwanda** (see Box 4.6), this has served to:

- encourage greater human rights analysis so as to influence the future direction of country programming (leading to a new Human Rights and Citizenship Programme);
- set the principles of engagement, including when aid flows might be affected; and
- identify additional activities beyond supporting a country's PRSP on which the CAP is now based.

#### Box 4.6: Human rights analysis and language in the new Rwanda CAP

DFID is now the largest bilateral donor to Rwanda. Former Secretary of State Clare Short strongly believed that the post-genocidal government led by the Rwanda Patriotic Front should be supported to advance its peace, security, reconciliation and poverty reduction objectives. A Memorandum of Understanding and an independent monitoring mechanism were set up to ensure political dialogue on human rights (see Box 4.8). The Rwanda CAP was identified by the review of Africa CSPs-CAPs as containing the most detailed human rights analysis.

The CAP notes Rwanda's significant achievements but also that the government has been criticised for human rights violations; while recognising political fragility in Rwanda, 'DFID's engagement in Rwanda is predicated on the government remaining committed to progressively securing all human rights for its citizens, and to establishing a fair and transparent framework for the operation of civil society and the media. Should these commitments be put into question, we will look again at the scale and nature of our programme.'

The CAP also notes limitations with the country's Poverty Reduction Strategy which, in a number of areas, is more muted; as a result of this analysis, the country programme also includes a focus on supporting basic government processes such as: an accountable, effective and democratic system of governance (through support for decentralisation, democratisation, constitutional reform and election processes); a robust and effective civil society; work to establish an appropriate non-oppressive regulatory framework for independent media and to build the professionalism of the media; security sector reform; as well as a focus on gender equity.

#### Box 4.6: Human rights analysis and language in the new Rwanda CAP (continued)

Following the establishment of advisers in-country in 2001, DFID realised that it had much to learn about the operation of the political system and the realities faced by poor people. Much of this work was done but in order to consolidate DFID's policy position on human rights, the strategy jointly promoted by the Social Development and Governance Advisers was to ensure that the revised CAP offered appropriate human rights language to allow future engagement on the issue. Drawing on this policy position, a Human Rights and Citizenship Programme is being designed; it will include both a strong analytical stream, promoting research and public enquiry on human rights as public goods, and support for appropriate civil society programmes, not just on civil and political rights – the objects of most attention in Rwanda – but also on economic and social ones.

As noted above, there is a range of ways in which human rights are integrated, sometimes leading to the explicit labelling as a 'rights-based' country programme or including 'rights-based' project activities. The review suggests that the governance context matters a great deal, as well as the history of the DFID programme, and that an evolution can be noted, as follows:

- work in China and Rwanda, where the human rights environment is challenging, is still at an early stage. Understanding the situation better and looking for entry points in existing programmes is the strategy that has been adopted;
- in Bangladesh and Pakistan, targeting a specific group (women) has become an overarching priority, given the overwhelming constraint on poverty reduction; and work on gender equality is a potential entry point for expanding into wider issues;
- in Malawi, work on human rights is more widespread, in particular through the programmes on governance (voice, rights and accountability) and 'rights-based' service delivery. There is already more experience and efforts at cross-programme lesson learning; and
- in the more supportive environment of Latin America, 'rights-based' programmes are more developed, working closely with both government and civil society and focusing strongly on social inclusion and equality.

### 4.3 Integrating human rights in programme delivery

This section reviews the ways in which human rights considerations affect how a country programme is delivered by DFID. Topics reviewed are: human rights considerations; human rights dialogue; aid instruments, in particular budget support; and working with other donors. The analysis suggests that there is scope for more research on these human rights dimensions, in which a number of DFID staff consulted expressed an interest.

#### Human rights considerations

The 1997 White Paper sets out a new approach to 'development partnerships', which contains an element of human rights conditionality. DFID expects partners to:

- have a commitment to the principles of the agreed international development targets and to be pursuing policies designed to achieve these and other UN targets;
- be committed to pro-poor economic growth and conservation of the environment;
- wish to engage with DFID and with the donor community to this end; and
- pursue policies which promote responsive and accountable government, recognising that governments have obligations to all their people, and promote the enjoyment of civil, cultural, economic, political and social rights, and which encourage transparency and bear down on corruption in both the public service and the business sector.

Human rights considerations are explicitly mentioned in some CSPs-CAPs and certainly play a role in DFID's decision as to whether or not to develop a programme of support; whether to work with government or mostly through civil society; and whether to use more flexible aid instruments, such as general budget support. Such decisions are not taken unilaterally; they involve the FCO as well as taking into account the perceptions of the general public and the positions of other governments and of the international community.

Information on whether the human rights dimensions of 'partnerships' are respected is varied. DFID's planning system and guidance documents do not require explicit human rights assessments. Information from human rights NGOs may be used, and they are invited to CSP-CAP consultations

(e.g. Human Rights Watch on Rwanda in summer 2003), but a review of Africa CAPs found that only the Uganda CSP explicitly mentioned Amnesty International as backing up its concerns over human rights violations by rebels and the army, as well as prisoners' rights. There is no systematic use of information from the UN human rights system, such as reports from the Treaty Monitoring Bodies or Special Rapporteurs.

Suspension of aid, or rather moving to a 'lower case scenario' in terms of aid volume, seems to be most often a result of poor economic policies, in particular the IMF declaring a country off-track as in the cases of Malawi or Kenya, rather than human rights considerations. Suspension from the Commonwealth or outbreak of war does not appear to lead to automatic suspension of DFID aid. These issues need to be examined further in order to get an accurate picture of DFID policy and practice (see Box 4.7 for some preliminary analysis).

#### Box 4.7: Application of human rights conditionality

**Africa** examples:

- In **Cameroon**, the CSP expresses concerns over human rights violations, but there has been no direct response by DFID (the programme is limited to the forestry sector).
- There was a near closure of the programme with **Ethiopia** in 1998, following an assassination by the police using DFID-funded Land Rovers, as well as suspension of aid during the war between **Ethiopia** and **Eritrea**. However, war is not always a reason for suspension. British aid (including budget support) to **Uganda** and **Rwanda** continued even during their intervention in the Democratic Republic of the Congo and alleged human rights abuses and exploitation of natural resources, reported by the UN.
- There was no state-to-state engagement with **Nigeria** under Abacha, when there was also suspension from the Commonwealth, but relations were resumed after the 1999 political transition.
- The Southern Africa Regional Assistance Plan mentions human rights only with regard to abuses in **Swaziland**: it expresses concerns that democratic norms are not being respected and that key international conventions have not been acceded to. Though human rights are not put forward as the reason, DFID is progressively reducing its programme of assistance, down to £1 million, which includes support to the NGO coalition CANGO.
- Assistance to **Zanzibar** was suspended due to concerns about governance and human rights (the disputed elections of 1995 and 2002 had led to the suspension of aid from all European Union governments) but a resumption of discussions between the political parties has led to a lifting of the ban.
- In the **Zimbabwe** CSP, the decline in respect for civil and political rights since 1999 is mentioned, and Zimbabwe has now been suspended from the Commonwealth. DFID still has a large £35m programme, mostly of humanitarian assistance, and works through the UN and NGOs rather than the government.

**Asia** examples:

- DFID does not give aid to the state in **Burma**, given the nature of the present regime.
- DFID is under pressure from international human rights NGOs not to work in **China**. The country office does not work directly with state organisations that have any involvement in the 'one child policy' (though global funding to the UN on the Cairo agenda covers China). It works only with NGOs in Tibet and does not get involved in population resettlements as they may be forced.
- DFID staff were taken out of **India** and **Pakistan** following threats of military action in 2002.
- Aid to **Pakistan** was halted following the 1999 military coup and DFID officials were not allowed to speak to the new government, though it had replaced a previous regime that had committed high levels of violations. By acting in this way, some consider that DFID may have missed opportunities to engage in dialogue with more like-minded ministers. Pakistan later continued to receive DFID aid when it was suspended from the Commonwealth.

## Human rights dialogue

Given the notion of 'obligations of conduct' as well as of 'results' from a human rights perspective, process is important. What therefore needs to be considered is how decisions on human rights conditionality are reached, and also whether the application of conditionality helps achieve the stated objectives. In most cases, suspension may be the result of an international or European ban, which the UK government is obligated to follow (e.g. Zanzibar). One approach is that of an outright suspension of assistance (e.g. Burma) which, from a human rights perspective, is extremely serious as it will affect

the very poorest more than the elite; it might be needed, though, to prevent legitimising and strengthening a regime through aid.

The more likely approach is human rights dialogue, led by the FCO, as in the example of China. In some more risky country programmes DFID has developed an innovative tool, the 'Memorandum of Understanding' (MoU) approach, which has been adopted in Ethiopia, Mozambique and Rwanda (see Box 4.8).

It would be useful if a more detailed study were undertaken of how DFID applies (or not) human rights criteria in its decisions on whether to engage/suspend aid, how this is balanced with other considerations, and whether/how human rights considerations might 'positively' influence an allocation of resources, for example more resources for countries facing the greatest challenges. This is particularly relevant to 'poorly performing countries' or 'difficult environments', and the policy team working on these issues has expressed interest in doing more work on this.

#### Box 4.8: Mechanisms for human rights dialogue

##### **China Human Rights Dialogue**

The China-UK bilateral human rights dialogue is highlighted in the China CAP under the 'fulfilling obligation' objective. It is led by the FCO in China and covers a range of issues, with a focus on civil and political rights. Each dialogue takes a theme, many of which have been of direct relevance to DFID's work, such as ethnic minority rights, and economic development and human rights. Participation in the dialogue provides the opportunity to raise the links between rights and poverty. DFID's contribution is appreciated by the government of China, as it is seen as based on their ongoing relationship. Working in collaboration with the FCO on human rights offers DFID access to considerable resources and can provide opportunities to enhance co-operation in areas of mutual interest, such as the International Labour Organisation (ILO) employment forum.

##### **UK-Rwanda Memorandum of Understanding**

Because of the political risks to the Rwanda programme (see Box 4.6), in 1999, DFID developed a Memorandum of Understanding between the UK government and the government of Rwanda. This commits both parties and is reviewed annually at Aid Talks, with independent monitors preparing a progress report based on a series of mutually agreed indicators. The process is seen as generally useful, as it creates an opportunity for high-level political dialogue as well as for joint monitoring. It could be made more proactive if both sides prepared their own assessments and also sought views of civil society, rather than relying on the report of independent northern consultants.

To a certain extent, it can be seen as a good model for 'development partnerships' which discussions around the Declaration on the Right to Development have promoted, since it creates a potential forum for Rwanda to hold the UK to account (e.g. if it did not deliver its aid as planned) and to raise issues with regards to the international environment for development which are included as UK commitments in the MoU (e.g. agricultural subsidies).

The UK is now Rwanda's largest bilateral donor, with £38m committed for 2003/4, rising to £47m in 2005/6, two-thirds of which is provided through budget support. The latest MoU, signed in February 2004, explicitly states as a common commitment 'the promotion and protection of the full range of human rights of all Rwandans, especially the poor, including through the promotion and observance of relevant international agreements to which our countries are signatories'. The UK government makes a number of commitments to supporting the PRSP and the National Programme for Strengthening Good Governance; the Rwanda government commits itself 'progressively to continue to promote and protect economic, social, cultural, civil and political rights as enshrined in all African and international human rights instruments'. This includes a number of specific commitments to publish reports on human rights abuses and the elections (concerning which it has been alleged that opposition politicians and others were 'disappeared'), and to make the National Human Rights Commission more effective.

## Aid instruments

Aid instruments are another way in which human rights considerations can be integrated into a DFID country programme. The Malawi programme shows that this can be done with any form of instrument (see Box 4.9). The DFID Aid Effectiveness Policy Team has expressed an interest in undertaking work on human rights and aid instruments, which DFID staff interviewed confirmed would be useful.

The current international consensus on aid effectiveness principles, such as 'partnerships' and 'country ownership', is highly consistent with human rights considerations, especially those derived from the debates on the right to development.<sup>1</sup> Aid mechanisms that build up recipients' ownership and capacity are more compatible with the principle that it is governments (rather than donors) that have the primary responsibility for human rights, and that donors have responsibilities to create a favourable

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<sup>1</sup> See footnote 6.

international environment (e.g. by pursuing an aid coherence agenda). Recent trends, in which DFID is actively involved, towards donor harmonisation and alignment behind a government's strategy may also help establish a less 'unequal' aid relationship, as they highlight responsibilities that donors themselves have accepted in particular to change their procedures and become more accountable (DAC, 2003).

#### Box 4.9: Diversity of aid instruments in Malawi

The CAP commits DFID Malawi to move progressively towards budget support, and thus requires a strengthening of the government's own systems. The activities reviewed here illustrate that a range of mechanisms can be used to integrate human rights objectives.

- *direct budget support* – discussion as to whether/how such support might be related to progress on human rights (e.g. conduct of 2004 elections) has not yet taken place but this may need to be addressed;
- *sector programmes* – the Malawi Safety Security and Access to Justice (MaSSAJ) programme is one of DFID's largest justice sector reform programmes. It works mainly with government bodies, but also undertakes research and works with civil society and community-based 'primary justice' providers;
- *pilots to influence Sector-Wide Approaches (SWAs)* – for example, the Local Initiatives for Health project aims to pilot participatory approaches to influence the health SWAp by providing mechanisms to give voice to the priorities of the rural poor and promote grassroots accountability mechanisms;
- *projects funded with other donors* – support to civil society and parliamentary committees is co-funded with USAID and (until 2001) DANIDA, and this has required DFID to harmonise procedures;
- *projects funded 'through' other donors* – DFID's £11.05m. Tikambirane voice and accountability programme adds resources to existing USAID and CIDA activities. Despite DFID's 'low transaction costs' intentions, design, negotiating procedures and the first year of implementation have still required significant inputs by DFID staff;
- *civil society support fund* – TRANSFORM had to be suspended in part for political reasons and a new multi-donor approach to civil society is now being prepared;
- *Good Governance Fund* – small grants through the High Commission to respond to a changing environment as well as to make DFID more responsive (funds drawn from the Tikambirane programme).

However, reliance on partners' systems and poverty reduction strategies can pose challenges. DFID's CAPs are based on PRSPs, which may not make explicit human rights commitments or may not be monitored by the government or donors from a human rights perspective. This may require DFID to prioritise actions that go beyond the PRSP and may thus conflict with the principle of country ownership (see Rwanda example in Box 4.6).

In the case of direct budget support, the nature of human rights accountability for the use of funds is less clear. Governments (rather than donors) are the primary duty-bearers vis-à-vis their own citizens, but donors also need to be held accountable, perhaps to a greater degree. Especially when they provide significant external support, they need to identify appropriate mechanisms to engage in dialogue (see Uganda in Box 4.10). Recent research on the evaluability of budget support highlighted the fact that the predictability of aid is of the utmost importance, given the negative impact of suspension or irregular financial flows on the budget and on poverty reduction (Booth et al., 2002). It may be politically necessary to suspend or at least delay aid flows in cases of consistent and gross violations of human rights or serious incidents; however, suspending aid also has a serious impact on the lives of the poor, which needs to be taken into account from a human rights point of view. DFID is contemplating preparing guidance on this.

Another challenge to maintaining a human rights perspective on aid instruments arises from the fact that aid negotiations, in particular on PRSPs, are highly influenced by the IFIs, which do not accept that they have human rights obligations and are not keen to introduce human rights considerations into policy benchmarks associated with lending instruments linked to PRSPs. In Uganda, donors developed a 'governance matrix' to complement the World Bank's Poverty Reduction Support Credit matrix (see Box 4.10).

#### Box 4.10: Donor co-ordination in Uganda

DFID is providing a large amount of budget support to Uganda, but there are also a significant number of international human rights concerns (on elections, torture, continued conflicts, and on appropriate level of military spending). Donors are particularly concerned that they may be held responsible for abuses committed by a government, supported by their taxpayers' money. At the same time, they want to support an extremely poor country that has made significant progress in achieving growth and poverty reduction.

Strong donor co-ordination facilitates dialogue with the recipient government on the more sensitive issues, and also requires DFID-FCO collaboration. This is carried out, not through the World Bank-led Poverty Reduction Support Credit (PRSC) Matrix, but through a related governance group, specifically developed to handle political issues which lie outside the PRSC. Donors have developed a mechanism constituted at the apex by Heads of Mission (ambassadors and heads of agencies), the Donor Democracy and Governance Group – DDGG), which is supported by a Technical Donor Group, with thematic sub-groups on human rights, democratisation, civic education, security issues and NEPAD. The DDGG, through this technical group, has established a basket fund to co-ordinate support on a series of initiatives such as election monitoring, civic education, and support to a coalition of NGOs monitoring democracy and human rights. DFID used to chair the Technical Group and still chairs a number of the sub-groups.

To focus the work of the DDGG and obtain consensus across the donor community, a matrix of governance issues has been developed (with a DFID Governance Adviser playing a leading role in establishing the framework). The matrix forms the basis for the identification of governance issues by the donor group and for monitoring and dialogue around these issues. The DDGG establishes the 'political line', whilst the technical group manages the technical aspects. The matrix, which is derived from Uganda's Poverty Eradication Action Plan, has been agreed and is reviewed periodically with the government. It contains a number of benchmarks for monitoring human rights, democratisation, accountability (corruption) and conflict.

While there are question marks over how widely owned the Governance Matrix is across government (particularly at the highest levels), there have been noted areas of progress. For example, in the area of human rights, there was concern about the lack of co-operation between the security agencies and the Uganda Human Rights Commission over its constitutional right to access places of detention. A meeting between Heads of Mission and the Ministry of Internal Affairs prompted the Ministry to facilitate a meeting between the Commission and representatives from the security agencies, where it was agreed that the Ministry and the security agencies would continue to hold regular meetings to address Commission concerns. It is still too early to judge how effective this dialogue will be, but it does mark a significant first step. The framework also appears to enable donors to share information, improve their co-ordination, and become less inconsistent in the messages they send to government. This will become increasingly important as Uganda embarks on a political transition process in the run-up to elections in 2006.

### Working with other donors

The integration of human rights in aid relations is thus not just a matter for individual donors, but also depends on how partnerships are established between donors and with recipient governments. In some cases, DFID can integrate human rights by working through another donor, for instance in 'silent partnerships' as in the provision of DFID funds through the Netherlands to the Justice, Law and Order Sector in Uganda – a sector which is essential to improving domestic legal and judicial mechanisms to enhance respect for human rights.

Sometimes, influencing human rights does not require the allocation of funding, but informal lobbying behind the scenes, as was identified in DFID work on partnership and influencing (Watkins, 2003), as well as the example of Pakistan where such an approach contributed to the development of work on violence against women presented in the submission on gender to DFID's Development Committee (Miers and Seeley, 2003). Such influencing may not be presented as an explicit strategy, or reported in monitoring systems, but can be effective.

Influencing multilateral organisations is another strategy that can have significant impacts, and is one of the approaches DFID adopts in middle-income countries. In Brazil, DFID has been facilitating processes of participation in the development of the World Bank's new strategy, and also aiming to incorporate greater equity concerns. In the case of the European Union/Commission, there are a number of agreements and instruments explicitly recognising human rights that can be used, as in North Africa and the Middle East (see Box 4.11).

#### Box 4.1 I: Working to influence the European Union in North Africa and the Middle East

The purpose of the DFID regional programme in the Middle East and North Africa is to help governments, civil society and the private sector drive the economic, political and social change needed to enable progress towards the MDGs. One of the outcomes that DFID aims to contribute to is more effective, accountable and inclusive governance that covers a number of areas, such as promoting the development of an active civil society that can hold governments to account in a range of areas, including service delivery and human rights.

DFID also aims to assist in enhancing the impact of key multilateral agencies in reducing poverty and in effective responses to conflict and humanitarian crises. The region is seen as of strategic importance to the European Union (EU). Relations are covered by the Barcelona process, which has established a 'Euro-Mediterranean Partnership'. This process includes an explicit objective to establish a common Euro-Med area of peace and stability, based on respect for human rights and democracy (political and security partnership). The European Commission (EC) *mesures d'accompagnement* (MEDA) programme is the principal aid instrument, focusing on economic transition (MEDA funds committed in 2000 amounted to 879m), and the region also benefits from lending from the European Investment Bank. Relations are also covered by Association Agreements (mostly regulating trade relations but also covering respect for human rights and democracy), and a new Wider Europe policy provides a new set of instruments to help reduce poverty and improve standards of governance and human rights.

Governance and human rights are thus part of both DFID's and the EU's agenda for the region. The DFID Regional Assistance Programme makes an explicit commitment 'to explore with the EU the extent to which human rights could play a fuller part in the Euro-Med dialogue, leading to better outcomes in line with existing agreements'. Some of the constraints faced by the EC in the region include the need to disburse large amounts of money while developing capacity to engage in policy dialogue. Given the low degree of aid dependency, donors also tend to have less influence in engaging in dialogue or in implementing political conditionality. EC programming is said to reflect governance and human rights priorities, but implementation does not always follow. Through informal discussions, DFID is encouraging the EC to make progress on this agenda. DFID also works closely with the FCO on these issues.



## SECTION 5

### Integration into Sectoral Interventions

This section reviews how human rights have been integrated into a number of ‘themes’ or ‘sectors’ supported by DFID. It looks mainly at country-level programming, but also discusses in more detail some important policy trends. Each section begins with a quote from a related human rights standard, to provide an example of how international law is relevant for the issue under review.<sup>1</sup>

The majority of the interventions reviewed are DFID-funded programmes or projects supporting activities that, through their content, aim at:

- helping to support particular groups (women, children, minorities, indigenous peoples, workers) in claiming and enforcing their rights;
- assisting social and political processes so that governments are more respectful of the rights of citizens (civil society, parliaments, elections, the media, public expenditure);
- assisting the state in respecting, protecting or fulfilling human rights (safety, security and justice, protection during/after conflict, health, education, social policy, livelihoods).

In addition to the content of the interventions, we review a number of approaches whereby the ‘process of development’ can become more respectful of human rights. This is being achieved in particular through the explicit adoption of a ‘rights-based approach’ by some DFID projects as a participatory and inclusive approach (e.g. in Malawi or Peru), as well as providing an analytical framework. We also review the modalities adopted by DFID to provide its assistance, in particular how it works with civil society and other donors as well as relations between centrally-supported initiatives and country programmes.

#### 5.1 Discrimination and vulnerable groups

##### *Universal Declaration of Human Rights (UDHR)*

*Art.1 All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.*

*Art.2 Everyone is entitled to all the rights and freedoms set forth in this declaration, without discrimination of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status...*

This section reviews work done by DFID to promote ‘inclusion’, the second operational principle of the Human Rights TSP, by looking at three categories: women; children; and minorities and indigenous peoples.

##### Gender

##### *International Convention of the Elimination of All Forms of Discrimination Against Women (CEDAW)*

*Art.2 State 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 ...*

*Art.4.1 Adoption by State Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination ...*

DFID has a long history of involvement in work on women in development and gender equality. Initially, after the 1985 World Conference on Women in Nairobi, policy was focused on a ‘women in

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<sup>1</sup> The extracts are not necessarily legally binding on the examples reviewed in the sections. They have been chosen to represent a diversity of binding and non-binding international and regional instruments.

development' perspective, taking forward interventions to counter the effects of discrimination against women, but aiming to mainstream this perspective. In the preparations for the Beijing conference in 1995 a 'gender and development' perspective was adopted – a perspective that takes both men's and women's concerns and experiences into account in development planning, aiming at gender equality alongside continued efforts at women's empowerment. The revised strategy was set out in a 1996 paper, which was part of the UK's report in the wake of the conference, *One Year on from Beijing*. This twin-track strategy remains the basis of DFID's policy on gender equality. The 1997 White Paper restates the approach but makes links to principles of human rights and social justice. The 1999 Gender Equality TSP, *Poverty Elimination and the Empowerment of Women*, sets the policy in an overall poverty reduction framework and provides practical examples of how it can be taken forward at strategic and operational levels.

One important element of DFID's work on gender equality has been the links with UNIFEM which, as the UN development agency working on women, has a close relationship to CEDAW. DFID has provided support to UNIFEM internationally, specifically to 'consolidate and build its strategic role in strengthening the capacity of the UN family and other partners to promote gender equality and implement a pro-poor, rights-based approach to development'. One aspect of this support has been the encouragement given to closer collaboration at a country level, for example collaboration on gender and racism in Brazil (see Box 5.1).

#### Box 5.1: Working with UNIFEM on gender and racism in Brazil

DFID in Brazil is planning to work with UNIFEM on the Programme of Support for Integrated Actions in Gender and Race Equity. The goal is to support and add value to the ongoing and planned UNIFEM programme to reduce poverty by addressing the high levels of social and economic inequality that are directly related to bias by gender, race and ethnicity in the country. The purpose is to enhance social equity by establishing and implementing a multi-institutional and integrated strategy addressing gender and race equity. It is envisaged that wider impact will be achieved by supporting UNIFEM's regional integrated approach on economic and social rights.

Specific areas where the project will work include:

- monitoring the public expenditure of municipal and federal programmes;
- strengthening institutions demanding and supporting equity in gender, race and ethnicity;
- supporting public policies and programmes containing principles of equity in gender, race and ethnicity; and
- advocacy in regional trade policy discussions to include concerns of gender, race and ethnicity.

The aim will be to use existing gender mainstreaming capacity as a starting point, integrating race and ethnicity concerns more clearly into the development of this gender work. The tools and approaches developed will also provide a useful starting point for work specifically focused on race and ethnicity, so that the project will draw on and contribute to DFID's ongoing and planned work on race and ethnicity, including the strengthening of links with the newly formed Special Secretariat of Policies to Promote Racial Equality.

DFID has a wide range of experience of working on gender equality issues at a country level. In the 1990s, a number of country programmes produced strategies with the overall aim of mainstreaming gender equality and women's empowerment objectives into strategic, programmatic and office levels (see Box 5.2). In addition, work has recently been carried out in Asia looking at issues of social exclusion, including an examination of work in DFID Nepal, India and Pakistan (see Hooper, 2003).

#### Box 5.2: Approaches to gender equality in Bangladesh and Pakistan

**Bangladesh** was one of the first country programmes to develop a gender strategy in 1995. Its subsequent development and integration into the CAP are discussed in Section 3. The main point to repeat here is that it highlighted the key nature of gender inequality in Bangladesh and the need to make it a primary focus of the country strategy as a whole.

In **Pakistan**, a more opportunistic approach has been pursued, with an emphasis on looking for entry points and opportunities and committing to them for the long term. DFID made a commitment to a ten-year strategy, which has had significant impact on two issues: violence against women and women's political empowerment.

DFID has also supported a range of work to improve domestic legislation, policies and practice to better protect women's rights. An example of using the justice system as an entry point is provided by the Jordan Family Protection Project which, starting with a protection unit in the police department in

the capital, helped change cultural perceptions of domestic violence and the development of a new national policy on family protection (see sub-section 5.5).

## Children

### *Convention on the Rights of the Child (CRC)*

*Art.19.1 State Parties shall take appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical and mental violence, injury or abuse, neglect or negligent treatment, maltreatment of exploitation, including sexual abuse ...*

*Art.27.1 State Parties recognise the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.*

The 1997 White Paper reflects the development of DFID policy on children and states that DFID will support international efforts 'to enhance children's well-being through the implementation of the Convention on the Rights of the Child, promoting children's protection and participation, alongside the provision of effective and sustainable services'. The 2000 White Paper sets out more specific commitments with regard to the MDGs on education and infant and child mortality, and on child trafficking and child labour. This section examines work on child rights, in particular implementation of the CRC. Sub-section 5.2 covers child trafficking and child labour.

The work on human rights in the Overseas Territories (OTs) was initiated in part through concerns about the lack of child protection. As set out in sub-section 4.1, the initial response to these concerns was to look at the overall situation with regard to human rights in the territories. As a result of this work and a recommendation that human rights abuses against children should be a matter for immediate action, DFID has put forward a *Framework for a Child Protection Strategy for the OTs* (see Box 5.3).

Other work specifically linked to the CRC includes DFID's links in East Africa with Save the Children and UNICEF. DFID Uganda has been in dialogue with UNICEF on strengthening the relationship between the two organisations. With regard to child rights, two areas have been identified as the basis for the partnership: establishing a Child Protection Officer in Gulu (a conflict region affected by abductions of children); and support for UNICEF in mainstreaming the rights-based approach and/or requesting that UNICEF represent DFID with regard to the rights of the child.

### **Box 5.3: Child Protection Strategy in the Overseas Territories**

The initial work looking at the human rights situation in the OTs was followed up by consultation with the FCO and the National Children's Home, an organisation with 30 years experience of working in the Caribbean. In addition, DFID has initiated programmes of assistance, including a programme of social welfare support in Pitcairn and the recruitment of a social work manager and an assessment of children's services in St Helena. The emphasis in the DFID paper developed from this experience is on a process of advocacy and consultation in order to stimulate the necessary political will in each of the OTs so that they have ownership of the process.

The process which led to the development of a Child Protection Strategy for the OTs is specifically linked to the reporting requirements, due in 2008, for the Committee monitoring compliance with the Convention on the Rights of the Child (CRC). This report to the CRC Committee will be the first joint report by the UK and OT governments and, to this end, 'a timetable of specific activities aimed at enabling both sets of governments to better meet their international obligations and, more importantly, to ensure that long-term methods and procedures are in place that will safeguard children from the trauma of abuse'. The paper looks at the challenges faced by the OT governments in meeting their obligations, including:

- their exclusion from regional assistance, and particularly access to support from organisations such as UNICEF and CIDA;
- the outdated and inadequate legislation in the territories; the lack of joined-up government and interaction between different agencies and departments;
- the weakness of standards, protocols and procedures;
- the under-resourcing of departments, particularly trained and qualified social workers; and
- the lack of opportunities for training and capacity building.

In response to these major challenges, the paper proposes that work be underpinned by a number of key principles, including the following:

- a genuine commitment on the part of both UK and OT governments;
- definition of roles and responsibilities between UK and OT governments based on partnership;
- ensuring that there is local ownership with broad societal support;

### Box 5.3: Child Protection Strategy in the Overseas Territories (continued)

- fostering partnerships, particularly between government and civil society, and OT governments and international bodies active in the region; and
- identifying champions of the CRC within the territories who will be able to drive the change process.

DFID's role in developing this framework is to provide guidance and some of the financial and human resources needed to push the strategy through.

## Minorities and indigenous peoples

### *International Covenant on Civil and Political Rights (ICCPR)*

*Art. 27 In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.*

### *ILO Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries*

*Art. 7.1 The peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development. In addition, they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly.*

DFID does not have any published policy on the rights of minorities and indigenous peoples, although there is a range of experience in country programmes. The policy entry point is in the Human Rights TSP, which states that: 'Human rights which are of particular concern to indigenous and minority peoples include rights to land, cultural integrity, participation in decision-making, health and a healthy environment'. The international instruments defining these rights include the two International Covenants, the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the International Labour Organisation Convention No 169. In general, there does not appear to be a comprehensive body of DFID work across countries; policy and guidance would seem to be needed, and organisations with relevant expertise, such as Minority Rights Group International, could provide assistance.

Three examples of particular interest are the Roma Rights and Access to Justice in Europe Programme; work in Bolivia on indigenous peoples' rights; and that proposed with the Inter-American Development Bank (IDB), which uses this theme as an entry point to work with the IDB more broadly on human rights (see Box 5.4).

### Box 5.4: Programmes on minorities and indigenous peoples rights

#### **The Roma Rights and Access to Justice in Europe Programme**

The project was implemented between February 2002 and January 2004. The goal was to promote social inclusion of the Roma minority in four target countries (the Czech Republic, Bulgaria, Slovakia and Romania) through an integrated strategy, its purpose being to empower Roma communities and develop structures that enable them to access services and justice at local level. The project aimed to achieve this through four outputs:

- the empowerment of Roma communities and strengthening the capacity of Roma organisations;
- the development of local partnerships and the promotion of equal opportunities strategies through municipal and community organisation co-operation;
- an integrated strategy to improve Roma access to public/municipal services, through the development of a multi-agency approach; and
- good practice from the development of local government-Roma partnerships and integrated strategies disseminated locally, nationally and regionally.

A mid-term review in February 2003 concluded that the programme's main contribution lay in its range of experiences, which gave it a unique authority, and in its strategic multi-agency approach. There were successes in disseminating the approaches developed in the project and in linking structures at different levels from the grassroots, through co-ordination of agencies at a municipal level, to national and regional level organisations. The review suggested that the project's experience should be used to produce a 'Partnership Handbook for Equal Access to Services' for eventual translation across the region.

#### **Indigenous People's Rights in Bolivia**

The goal of the proposed Indigenous People's Rights Project is the recognition and realisation of the economic, social, political and cultural rights of indigenous people in Bolivia. This will be achieved through: a rights-based approach; actions that will seek to have a political impact; and activities that cross-cut various sectors.

#### Box 5.4: Programmes on minorities and indigenous peoples rights (continued)

The origin of this initiative was support for a NGO through a Natural Resources Research Project, funded from 1997 to 2001. A review in 2000 concluded that, while there are currently a wide variety of development programmes being implemented in the Lowlands of Bolivia, only a small proportion have a clear political focus. The majority seek to improve indigenous livelihoods without challenging the *status quo*. The main concerns are about:

- access, and consolidation of rights, to land and territory;
- appropriate management of the natural resources base;
- right of access to economic resources and investments;
- access to political power and direct representation at all levels in the government structures; and
- active participation in crucial processes of developing and monitoring pro-poor policies at the national level.

#### **Collaboration with the Inter-American Development Bank (IDB)**

Two linked programmes with the IDB aim to support the development of an indigenous strategy and promote rights-based approaches in the organisation. The overall purpose is to strengthen the commitment of Latin American and Caribbean institutions, in particular the IDB, to realising the rights of excluded people and promoting the adoption of a rights-based approach to development within the region.

The first programme will support the development of the IDB's first Indigenous Peoples Strategy. The objective is to ensure a highly participatory and top quality indigenous development strategy to guide the IDB in its activities related to indigenous people during the next decade. There are two elements: a review of the IDB's experience with indigenous peoples; and a series of consultations with indigenous peoples throughout Latin America, culminating in a final 'indigenous forum' where key indigenous leaders from the region will discuss an advanced draft of the strategy.

The second programme's overall objective is to introduce and engage regional development institutions and the Latin American and Caribbean community in how a rights framework could enhance and improve the design and implementation of inclusive development policy. It encompasses two main elements: a review of Latin American experience with rights-based approaches, including in the IDB, World Bank and Economic Commission for Latin America and the Caribbean; and two seminars that will explore and advance thinking on the use of rights-based approaches within the region and, in particular, within key regional institutions.

## Human rights system

The review attempted to identify examples where DFID was explicitly grounding its work on the international human rights system (mechanisms as well as standards), whether it was supporting reforms to ensure that international commitments were integrated into domestic law, and how far it was systematically working with national human rights institutions, such as equal opportunities commissions, or regional mechanisms in Africa or Asia, or international mechanisms, such as the UN Treaty Monitoring Bodies (TMBs).

In general, DFID does not seem to work systematically with international *mechanisms* in its anti-discrimination activities (there is a similar finding across other themes). For example, though CRC is explicitly mentioned in the 1997 White Paper, DFID's country programmes do not seem to use the reports of the CRC Committee (one of the TMBs), or help support the preparation of government reports or shadow NGO reports. Exceptions identified are:

- work in China with other donors and UN agencies concerning the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW), which provides a non-controversial entry point on human rights to engage in policy change (see Box 5.5); and
- work in the Overseas Territories (OT) on the CRC, where the UK government's obligations are different. The 2008 CRC reporting date sets a deadline for the UK and OT governments to work towards in developing a Child Protection Strategy (see Box 5.3).

#### Box 5.5: Working around CEDAW in China

In China, although the environment for addressing human rights is constrained, there are opportunities to discuss the implementation and reporting on CEDAW in the wake of the 1995 Beijing conference. The conference and the resulting international attention have brought working with civil society on the international convention and national legislation on-to the agenda for the government of China. Work in China following the Beijing conference was led by UNIFEM and included supporting the women's movement to report alongside government on CEDAW. The most recent CEDAW report for China sets out a number of recommendations and UNIFEM wishes to build on previous work in the current reporting process. DFID has agreed to support UNIFEM in this process.

### Box 5.5: Working around CEDAW in China (continued)

In addition, DFID is an active member of the UN expanded gender theme group. This group is exploring the possibility of a donor-co-ordinated mechanism to support policy and advocacy on gender equity and poverty. The potential for a donor fund is being looked at to develop links between gender research, policy and donor priorities.

It is understandable that DFID does not do more work with the TMBs. There is both a lack of staff knowledge of the relevance of the system and the need for UN human rights mechanisms to become more 'user-friendly' towards international development agencies. The strong relationship between the CRC and UNICEF is often mentioned as an example, given UNICEF's specific responsibilities set out in the CRC itself (Moser and Moser, 2003). There is also more that OHCHR can do to facilitate this process of making the TMBs more relevant (O'Neill and Bye, 2002). DFID could assist by working with and learning from UNICEF and UNIFEM in particular, and translating this learning into more general DFID practice. Some of the work reviewed in this report provides examples of good practice.

However, the TMBs are not the only way in which DFID can work to support respect for international standards; from DFID's perspective, international and regional mechanisms are remote from the lives of the poor, and other strategies might be more appropriate. This review has identified a number of DFID-funded activities where partners are using international standards to help introduce domestic changes, or making sure that domestic legislation, public policies, and the performance of institutions are improved to meet constitutional standards.

## 5.2 Core labour standards

### *ILO 1998 Declaration on Fundamental Principles and Rights at Work*

*Art. 2 [The international conference] declares that all Members, even if they have not ratified the [ILO] Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and in accordance with the [ILO] Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely:*

- (a) freedom of association and the effective recognition of the right to collective bargaining;*
- (b) the elimination of all forms of forced or compulsory labour;*
- (c) the effective abolition of child labour; and*
- (d) the elimination of discrimination in respect of employment and occupation.*

This section reviews DFID's work on labour and employment rights and covers: the policy framework, based on international labour standards set by the International Labour Organisation (ILO) and pursued through support to the ILO; supporting initiatives on workers' and employment rights; combating child labour and trafficking; and partnerships in the UK, in particular with the Trades Union Congress. This body of work provides a good illustration of basing interventions on international human rights standards.

### Policy and support for the ILO

DFID policy focuses on the four core labour standards in the ILO's 1998 Declaration on Fundamental Principles and Rights at Work (see quotation above). The 1997 White Paper sets out four key areas to support the observance of core labour standards for all workers, namely:

- collaboration between business and the voluntary sector in the UK;
- supporting capacity in developing countries to develop and monitor codes of conduct;
- working with the ILO; and
- promoting a 'human rights-based approach' to labour issues by support for multilateral organisations.

There is a considerable range of diverse interventions, working with key actors, including the ILO, NGOs, business and trade unions. This experience has been brought together in the preparation of the 2003 consultation document, *Labour Standards and Poverty Reduction*. Key areas where DFID has focused its support are: labour rights and employment projects; work on children; and socially responsible business.

A central focus of the work on core labour standards has been the development of links with the ILO, through central support, staff secondments and support for specific programmes. The relationship was first developed in 1997 through support for poverty-related activities at a sectoral and country level, particularly work on the elimination of child labour. In 2001, a partnership framework of £15m over four years was agreed, with the aim of developing shared objectives and priorities. The partnership aimed to enable a process of mutual learning: DFID was to assist the ILO to increase, support and refine its poverty objectives; and the ILO was to assist DFID to develop greater understanding and support for its promotion of opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity. In pursuit of these objectives DFID has seconded Social Development Advisers to the ILO with the aim of building up capacity in poverty analysis. In turn, the ILO has provided expert support to DFID in work on migration and in drafting the development of the recent consultation document. This is a good example of a 'two-way' partnership agreement.

## Labour and employment rights

DFID also supports a wide range of work on labour and employment rights:

- at the international level, with UNISON/SOLIDAR to help women and men activists in civil society organisations and trade unions improve their capacity for dialogue with international institutions such as the World Trade Organization, ILO, the World Bank and the IMF;
- at the regional level, with War on Want and Women Working Worldwide in Asia to improve the working conditions and income of mainly women workers and to enhance workers' and activists' understanding of the processes of international subcontracting; and
- at national levels: in South Africa empowering women farm workers (Womenkind Worldwide); in Nicaragua enabling women in export-processing zones and in domestic service to exercise their rights; in Bangladesh, on labour rights education and leadership training (War on Want) and increasing women's participation in trade unions (Commonwealth Trade Union Council – CTUC); and in Zimbabwe in strengthening the voice of unorganised workers.

To take another international example, DFID has supported Homeworkers Worldwide in a project on mapping home-based work in Asia, Africa, Latin America and Eastern Europe. A recent annual review concluded that good linkages had been made between organisations at a regional level, and the collection of information on home-based workers, although slow, was likely to be of great value in the development of national and international policies.

DFID has also supported the development and dissemination of practical tools to implement and monitor core labour standards in the construction industry (see Box 5.6).

### Box 5.6: Monitoring standards: Social Aspects of Construction

The Social Aspects of Construction study initially started in three pilot countries (Ghana, Zambia and India) bringing together government, private contractors, trade unions and NGOs to find ways of implementing labour standards through the employment contract process. The key element of the work was to bring together parties with different interests to find ways of working together to develop, apply and monitor standards. The findings of the study were presented at an international workshop in South Africa in 2002, which provoked widespread interest in further adaptation and dissemination of the work.

A Sourcebook on Implementing Labour Standards in Construction was produced drawing on the experiences of the study (<http://www.lboro.ac.uk/wedc/projects/sac/>). A project is currently under way, from November 2002 to December 2004, to disseminate the findings of the study to key multilateral institutions, such as the EC and the World Bank, bilateral donor agencies and private firms that work closely with DFID. Funds are available in the project to help key organisations to incorporate labour standards into their own guidance.

## Child labour and trafficking

In the discussion of labour standards in the 2000 White Paper, DFID states that it is 'particularly committed to taking action against child labour'. The 2002 paper on child labour, *Liberating Children*, makes two commitments: to continue to support and strengthen organisations tackling child labour internationally, nationally and locally; and to ensure that appropriate policies are in place for long-term, sustainable changes benefiting children.

Country activities have included work with the ILO in support of two major projects on child labour in Andhra Pradesh, India and on the trafficking of women and children in the Mekong area (see Box 5.7).

This large-scale support is complemented with a range of smaller-scale NGO activities, particularly that of Save the Children UK, both at an international and a country level. A summary of the work on child labour, street children and child trafficking highlights the wide range of work that DFID is supporting in Africa, Asia and Latin America, with organisations such as UNICEF, SC-UK, Anti-Slavery International, Childhope and World Vision.

#### Box 5.7: Support to child labour and child trafficking initiatives

##### **State-Based Programme for the Elimination of Child Labour, Andhra Pradesh, India with the ILO**

Consultants identified the ILO International Programme on the Elimination of Child Labour as a useful entry point on child labour, and the work in Andhra Pradesh as overlapping with DFID's developing relationship with the state government. Project support was agreed in 1998 with the stated purpose of developing successful, replicable pilot interventions which contribute to the progressive elimination of child labour in India.

A mid-term review in 2002 found that the project had been very successful. It had played a key role in helping the government to shape its policy and programmes on child labour towards a time-bound programme for the total elimination of child labour in Andhra Pradesh, and this had influenced government thinking on changing the existing laws to keep them in tune with the new proactive policy, committing the government to bringing in new comprehensive legislation on child labour.

##### **Greater Mekong Regional Trafficking Project, ILO**

DFID South East Asia is now supporting the second phase of this anti-trafficking project reporting in five countries (Laos, Cambodia, Vietnam, Thailand and Yunnan province of China). £2.7m was given for the first phase from December 1999 to April 2003, the objectives of which were to:

- build capacity at sub-regional, bilateral and national levels to combat trafficking;
- advocate and raise awareness on trafficking issues at local, national and sub-regional levels; and
- model participatory pilot interventions at community level for prevention, withdrawal and the reintegration of trafficking victims.

The 2002 mid-term evaluation found that the first phase had laid strong foundations for nationally-owned strategies to address trafficking, but that further work was needed to ensure the realisation of future strategy with respect to resourcing and capacity building amongst government staff and NGOs. £6m has been given to a second five-year phase from 2003. Work will continue on two levels: through NGOs and civil society groups to inform and educate communities about trafficking, augmented by efforts to establish government institutions to develop policies and systems to combat women and child trafficking.

## Partnerships in the UK

Another important area in DFID's work on core labour standards has been the efforts to engage with a wider range of actors, in particular with trade unions and business, in supporting work at a national level; in development education; and in the UK. DFID has had considerable experience of working with trade unions on development issues, through the Workers Group Development Scheme. A number of trade unions, such as the CTUC, continue to be funded through the Civil Society Challenge Fund for work in developing countries, along with development awareness funding for a number of UK-based trade unions.

Exploratory work on corporate social responsibility was begun with funding for the Ethical Trade Initiative (ETI) in 1997 and a DFID document, *A Review of UK Company Codes Of Conduct*, in 1998.

The ETI is a tripartite alliance of business, trade unions and development organisations aimed at improving the living conditions of workers in global supply chains and their families through the promotion of good labour standards. DFID has also supported the development of relationships with organisations that do not have international development as their main focus, through Strategic Grant agreements, including one with the Trades Union Congress (see Box 5.8).

#### Box 5.8: Working with UK-based partners on labour standards

##### **The Ethical Trade Initiative** ([www.ethicaltrade.org/pub/home/welcome/main/index.shtml](http://www.ethicaltrade.org/pub/home/welcome/main/index.shtml))

DFID supported the establishment of the ETI in 1997 and has been involved with the organisation as an observer at board meetings. This support has been extended for a second phase from 2002 to 2005 with funding of £1.3m, with the aim of progressing to developing good practice among the ETI members by:

- defining good practice in corporate responsibility for workers in global supply chains with an emphasis on the poorest workers and worst forms of labour abuse;
- promoting a rights-based approach to development by enforcing workers' rights through established business relationships and strengthening the capacity of civil society organisations to monitor the observance of these rights; and



### Box 5.8: Working with UK-based partners on labour standards (continued)

- advocating an internationally agreed, rules-based approach to the application of voluntary labour codes based on ILO conventions.

The ETI members include many of the largest retailers in the UK, such as ASDA, Safeway, Marks and Spencer, Levi-Strauss and Next, a range of trade unions, including the TUC and International Federation of Free Trade Unions and many of the major UK-based NGOs, such as ChristianAid, Oxfam, Save the Children and the World Development Movement.

#### **The 2003 Strategic Grant Agreement with the Trades Union Congress (TUC)**

In this agreement (with support of £255,000 over 2003–06), DFID recognises the TUC's prominent role in the international campaign for observance of core labour standards and the elimination of child and forced labour; its international development work; and its prominent role in the international trade union family. Outcomes are:

- the TUC is more aware of the international development agenda, through engagement with key regional, national and international players from across the development sector – an outcome that includes a two-way dialogue with DFID on key policy issues;
- TUC constituent members have greater awareness of international development issues – including introducing concepts such as the rights-based approach to global poverty reduction into trade union education in the UK; and
- the TUC has the organisational and institutional capacity to plan and deliver effective activities from its experience and comparative advantage. This should include connections with, and ability to influence, international union organisations and governments – including strengthening dialogue with Southern unions.

Whilst the agreement is still relatively new, the TUC has made inputs into the *Labour Standards* consultation document; it has been agreed that a regular contact point for trade unions will be appointed in DFID's Policy Division and there will be a more formal structure for dialogue with DFID ministers.

## 5.3 Civil society

### *African Charter on Human and Peoples' Rights*

*Art.8 Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law or order, be submitted to measures restricting the exercise of these freedoms.*

*Art.9.1 Every individual shall have the right to receive information.*

*Art.9.2 Every individual shall have the right to express and disseminate his opinions within the law.*

*Art.10.1 Every individual shall have the right to free association provided that he abides by the law.*

*Art.10.2 Subject to the obligation of solidarity provided for in Article 29 no one may be compelled to join an association.*

*Art.11. Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.*

Supporting civil society organisations (CSOs) is a 'way of working' to further the promotion and protection of human rights and is thus relevant to a number of sectors or themes covered in this review. However, a separate section is justified, given the important shift in the nature of DFID assistance and the advocacy role of CSOs. This section reviews changes in DFID policy, in particular the explicit adoption of a 'rights-based approach' by the Information and Civil Society Department (ICSD), and changes in approaches to country-level support.

Other forms of engagements are reviewed elsewhere: the main centrally-funded initiatives, the Programme Partnership Agreements (PPAs) and the Civil Society Challenge Fund (CSCF) in sub-section 3.2; other centrally-funded initiatives such as Strategic Grant Agreements in sub-section 5.2; and country-level support through governance funds in sub-section 5.4.

## Policy

The 1997 White Paper reiterated DFID's commitment to working with 'voluntary charitable and non-profit-making organisations', but signalled a change in the types of engagement by stating that DFID wanted to discuss how to reorient existing arrangements with the particular 'objective of strengthening the capacity within developing countries of non-governmental organisations'. After a major consultation exercise, the existing block grants and volunteer programmes were reorganised as PPAs,

and the Joint Funding Scheme as the CSCF, the main aims being to engage with a much wider range of organisations.

The 2000 White Paper brought a further development in DFID's thinking and policy, as encapsulated in the statement: 'It is particularly important to strengthen the voices of civil society in countries. The Voices of the Poor consultation showed that poor people place their greatest trust in churches and faith groups. But other groups – human rights and women's organisations, trade unions, NGOs and co-operatives – could also play a stronger role in giving poor people a greater voice.' This marked a significant shift in emphasis within DFID: from working with international NGOs to attempting to work with a much broader range of CSOs; and from working with NGOs as service providers to working with CSOs to hold governments accountable to their people. The White Paper contained the commitment to: 'Work with civil society to strengthen the capacity of poor people to hold governments and international institutions to account for progress on poverty reduction'. As a review of projects in the Joint Funding Scheme showed, this shift in DFID's policy in part followed a shift in emphasis within the NGO community, moving away from direct implementation and service delivery to developing innovative approaches to building capacity in partnership with organisations in developing countries and working in advocacy.

ICSD has taken a lead in mainstreaming 'rights-based approaches' in all DFID's work with civil society, as is most clearly set out in a recent document, *How to Work with Civil Society*, which is being developed as an active web-based resource to help country teams in practical ways. Civil society is defined broadly as being 'located between the state, the private sector and the family or household, where society debates and negotiates matters of common concern and organises to regulate public affairs. It embraces: institutionalised groups, such as religious organisations, trade unions, business associations and co-operatives; local organisations, such as community associations, farmers' associations, local sports groups, NGOs and credit societies; and social movements and networks.'

This understanding of the role of civil society follows the 2000 White Paper but sets out the case using the three TSP human rights principles as follows. The ICSD works mostly with civil society to promote participation and inclusion and, under the principle of obligation, encourages civil society to work more with the government, which requires it to be effective and accountable. The role of civil society is set out as acting as a check and balance on governments by:

- playing a vital part in educating people about their human and legal rights;
- assisting them to claim these rights and entitlements from the state; and
- lobbying with government to respond to these claims.

## Country-level support to civil society

DFID's policy shift, from working with NGOs to a focus on engagement with CSOs with a greater focus on advocacy, and aiming to engage with civil society on political empowerment and education on human rights, has taken place in a number of DFID programmes. The East Africa experience demonstrates some of the problems faced, in particular in actually reaching CSOs and the limited capacity in such organisations (see Box 5.9).

### Box 5.9: Engagement with wider civil society in East Africa

DFID East Africa established the Direct Funding Initiative (DFI) in 1996, building on the experiences of engaging with civil society through the Participatory Poverty Assessment processes in the region. The DFI provided DFID with a means of extending support to CSOs in Uganda, Kenya and Tanzania with the aim of incorporating innovative practices developed by these organisations into DFID's sectoral programmes, taking advantage of their closer contacts with poor communities. The initiative provided grants to Oxfam, WaterAid, CONCERN, Save the Children, ActionAid, AMREF, Marie Stopes and HelpAge International with a total value of £6.3m between 1996 and 2000. A review of the DFI in 1999 showed that funding was given mainly to large UK-based international NGOs and was not reaching local CSOs as had been originally intended. The DFI was wound up in 2000.

Individual country programmes, such as in Tanzania, commissioned research on civil society which looked at a range of issues, from work on networks and the vulnerable to social capital formation in the country, and from civil society's engagement in public policy to governance and accountability. The experience from the DFI and the results of research were used as the basis for developing a range of country-level support for civil society, including:

- the Civil Society Programme in Tanzania which has the aim of empowering civil society to address poverty and which works in four impact areas: policy, capacity building, safety networks for the poorest and governance;

### Box 5.9: Engagement with wider civil society in East Africa (continued)

- the Civil Society Umbrella Programme in Uganda which has the aim of interacting with government at all levels to effect pro-poor policies, social progress and democratisation and includes making poor Ugandans aware of, and able to, exercise their human rights; and
- the Civil Society Umbrella Programme in Kenya, which concentrated mostly on civic education initiatives, particularly for the 1997 elections, and the provision of legal services and legal information.

There have been recent reviews of all three programmes, which have produced mixed results.

- A review of the Tanzania Programme in Morogoro region in 2003 found that while the programme had been able to engage more effectively with local CSOs, the main impact so far had been on these organisations rather than on the communities with which they work. The review did find that local governments were increasingly recognising that the CSOs supported by the programme were serious partners; and
- A review of the Programme in Uganda found that it had tended to work with organisations that were part of Kampala-based networks and alliances and that funding tended to be concentrated on NGOs rather than wider civil society actors. It found that the programme had been successful in supporting organisations to become involved in policy dialogue in health, education, agriculture, natural resources and water.

DFID policy is thus clear on the role that CSOs play, not just in service delivery, but also in advocacy and informing policy debates. However, this approach assumes that ‘civil’ and ‘political’ society can be clearly defined and distinguished, and that the former can be assisted without intervening in the party political realm (see also discussion at DFID workshop for Governance and Social Development Advisers in October 2002). This is often not the case, however, and examples can be found of civil society activists benefiting from DFID assistance and later becoming members of governments (for example the director of Transparency International-Kenya joined the post-Moi government in 2003 to work on anti-corruption). The assumption proved fatal to a civil society project in Malawi. Some of the lessons learned by DFID from this project have included the need to ‘link supply and demand’ and not to conduct a purely advocacy-based project in a tense political environment, as well as the need to join with other donors for more sensitive interventions (see Box 5.10).

### Box 5.10: The experience of TRANSFORM in Malawi (2001–03)

The full title of this £3m project is ‘Through Rights to Needs for Marginalised Malawians’. Its goal was to empower marginalised Malawians to realise their rights within the provisions of the Constitution and relevant international instruments. The rationale was the limited capacity of CSOs to facilitate the realisation of the practical economic and social needs of the poor and to be involved in poverty reduction processes. The focus was to build CSO capacity, facilitate a process for poor and vulnerable people to act and speak for themselves, and promote participation in decision-making, including access to information.

The project was not able to get beyond its inception phase (started in 2001) as activities were suspended at the request of the government and it closed in April 2003. In the post-1994 transition context, the environment had been conducive to discussing human rights issues, and the programme was designed in response to this. The main reason for its closure was the difficult political environment within which it later operated. It was to be launched in 2002, at the time when the ruling party was working for a change in the Constitution to allow the President to serve a third term and possibly more. A civil society movement developed rapidly to challenge this, and the project was identified by government as being part of it. The government demanded that the launch of TRANSFORM’s grant-making phases be suspended. In negotiations between DFID and the government, it proved impossible to reach an acceptable compromise that better informed government but left the selection of civil society partners outside its direct control.

In addition, DFID Malawi recognised other weaknesses of the TRANSFORM approach:

- it had underestimated the sensitivity of the project;
- a ‘blue print approach’ could not respond to a rapidly changing governance environment;
- it had not adequately negotiated the project at the political, as opposed to technical, level with the government;
- it should have ‘linked supply and demand’ instead of being simply an advocacy project; and
- it would have benefited from partnership with other donors, and from an external management arrangement rather than just a technical co-operation officer.

DFID Malawi closed the project with the intention of using the above lessons to design a better, longer-term programme for CSO support (under design). It was criticised in some quarters for doing so.

Support through country-level civil society funds appears to be increasingly, and more explicitly, based on human rights (see Box 5.11). The Bangladesh experience shows how human rights can be relevant

at various levels, in particular: in setting programme objectives, based on international or constitutional standards; in identifying principles of engagement, including those based on the Human Rights TSP; in focusing on the rights of particular vulnerable groups; and in strengthening mechanisms through which rights can be claimed and enforced.

#### Box 5.11: Manusher Jonno in Bangladesh

Between 1998 and 2002, DFID funded a Good Governance Small Projects Scheme which allocated £500,000 to over 20 projects. Following an evaluation in 1999, it was replaced by the Human Rights and Governance Programme, later renamed Manusher Jonno ('people for people'), to be implemented over 5½ years from July 2002, with a budget of £16.52m. The purpose is to enhance the capacity of and opportunities for poor women, men and children to demand improved governance and recognition of their (civil, political, economic and social) rights.

The project operates as a challenge fund (it has made two rounds of calls for proposals) and is managed by a consortium. It reports to an independent steering committee, comprising eminent persons from civil society, and it will probably evolve into an autonomous fund, both to reduce political risks for DFID and to enhance Bangladeshi identity and ownership. The FCO was involved in the design and provides advice on politically sensitive issues. The only undertaking by grantees is that they must not be involved in party political activities.

The rationale for the fund is that the Constitution guarantees equal rights for all but that they are often violated, especially in the case of poor and marginal people. Improving governance and enabling people to demand their rights is said to impact positively on overall development goals. The fund is described as having adopted a 'rights-based approach' and has a number of guiding principles which closely parallel human rights principles, namely:

- promoting basic fundamental rights as guaranteed in the Constitution as well as international instruments;
- respecting the culture and values of particular groups, but not at the cost of individual rights;
- promoting gender equality and social justice to end discrimination and ensure power equilibrium;
- ensuring active participation of all relevant stakeholders at different levels; and
- ensuring transparency and accountability, keeping in mind flexibility and diversity.

Five thematic priority areas have been identified:

- improving the quality of governance institutions to meet human rights obligations;
- influencing improvements in policy formulation and implementation;
- helping poor people to advocate for equal rights and access to resources and opportunities, especially focusing on disadvantaged people and minorities;
- promoting the rights of women and children; and
- promoting the rights of the extreme poor and socially excluded people.

## 5.4 Governance

This section reviews the integration of human rights in DFID's overall governance policy, governance analytical tools and indicators; governance funds; support for elections and parliaments; the media; and public expenditure management. It does not cover all aspects of governance as defined by DFID. Interventions on safety, security and access to justice are reviewed in sub-section 5.5, on conflict in sub-section 5.6 and issues of accountability and responsiveness of service delivery are covered under the social sectors in the sub-section 5.7. There will be some inevitable overlap with sub-section 5.3, reviewing support to civil society.

### Policy and tools

DFID's 2000 Governance TSP, *Making Government Work for Poor People*, sets out seven basic capabilities that governments need to develop in order to address poverty effectively. In describing them, explicit human rights language is used, in particular in reference to the Universal Declaration of Human Rights (UDHR) on political rights, and to fundamental rights with regards to security and justice. Some of the analyses of the capabilities recommend interventions that are illustrative of a number of human rights standards (see Annex 7 for details). The approach is consistent with DFID's three operational principles, in particular the importance of actions to promote political participation, inclusion and accountability (see Box 5.12).

### Box 5.12: Tackling political exclusion: quote from the Governance TSP

By comparison with current practice, the ideal is for democratic institutions to be inclusive, fair and effective. Freedom of expression and association is crucial in tackling political exclusion: if people know their rights and know about government programmes and responsibilities, they are better able to hold the state to account. Free and effective media and a politically active civil society to organise and advocate are important, as is an inclusive and fair electoral process and a vigorous and knowledgeable parliament.

Perhaps more so than other sectors/themes, governance is seen by some staff as closely associated with the third DFID operational principle, 'obligation'. DFID governance interventions aim to build up state capacity, which can then enable governments to meet their human rights obligations, such as providing social security or respecting due judicial process. However, it would not be accurate to say that *all* DFID governance interventions are designed to do this; a human rights perspective is required to make sure it takes place. For example, public service reform programmes may fail to consider issues of racial discrimination or core labour standards explicitly as fundamental rights. In addition, though the TSP at times uses human rights language, it does not make reference to binding international instruments such as the International Covenant on Civil and Political Rights, nor to national human rights institutions.

In recent years, in particular since the DFID-funded inputs on political institutions into the *World Development Report 2000/01* (Moore and Putzel, 1999) and the series of papers on 'drivers of change' prepared by Sue Unsworth, there has been an explicit recognition within DFID of the importance of domestic political systems and of the need to make 'citizenship' real so as to render the state more responsive to the needs and demands of the poor. This requires assistance to strengthen both the 'supply side' (e.g. accountability institutions such as ombudspersons, parliaments, and media) as well as the 'demand side' (rights awareness, advocacy campaigns, domestic policy and research capacity). Such interventions might be better described as promoting 'citizenship rights', as they are aimed at enabling citizens to become more aware of their specific rights and entitlements under domestic law and policies, and to strengthen the capacity of the state to treat people as citizens, rather than furthering patron-client relations.

The importance of better understanding specific country situations has been reinforced by the call (and provision of support) for DFID staff to become more proficient at political analysis. The Drivers of Change policy team leads this work. It has not made an explicit attempt, however, to use human rights as part of its analytical framework, though human rights movements have been part of processes of political, social and economic change.

There are a number of DFID 'governance tools' available to undertake assessments of human rights situations. Though DFID has not developed the equivalent of Sida's explicit democratic governance and human rights assessment tool (Sida, 2003), the 'governance review framework' (Beetham *et al.*, 2000; Governance Department, 2002) and the 'political systems framework' (Moore, 2001) do draw attention to international obligations and how a number of human rights principles are promoted and respected in practice. These tools can thus facilitate a human rights analysis, but are not necessarily used in that way.

In terms of implementation, interviews confirmed that collaboration with others outside DFID is needed to ensure the success of country-level interventions that might be politically sensitive. This was particularly the case with High Commissions/Embassies (to ensure shared analysis and a consistent UK line) and with other donors (to 'spread' political risks), for example with regard to the preparation and monitoring of elections (see Box 5.13 on Kenya and Box 4.10 on Uganda).

Monitoring and evaluation of governance programmes from a human rights perspective remain difficult. The policy team working on Poverty Reduction in Difficult Environments considered the use of human rights indicators as criteria for interventions, but concluded that this was not useful, given that existing indicators, such as those from Freedom House, are highly political. The Africa Policy Department has recently undertaken research on governance indicators. In a recent background paper on political governance, it notes that: 'Human rights abuses (including economic and social rights) are complex to define, track and quantify. There is very little global consensus on the measurement of rights.' Though it recognises that: 'There are international treaties that establish national obligations in respect of the provisions of rights to citizens and groups of citizens' and that 'DFID should encourage governments to uphold their international obligations and promote the entrenchment of rights', it does not specifically mention the African Charter on Human and Peoples' Rights (and its Commission) binding on African states, but rather points to the New Partnership for Africa's Development and the

UN Economic Commission for Africa's Governance Reports.<sup>2</sup> Continued research, consensus-building and innovation may be required in this area, to see how human rights standards and principles can play a role in developing better governance indicators and in recognising the relevance of regional human rights as well as international mechanisms for monitoring purposes.

## Governance Funds

'Human Rights' or 'Governance' Funds have been used in a number of country programmes to promote respect for civil and political rights (see Box 5.13). These tend to operate as challenge funds, allowing relatively flexible disbursement of small grants to government bodies or civil society organisations, often covering issues such as human rights reporting by NGOs, media training, civic education or small-scale justice projects. Their value lies in:

- the potential responsiveness to political developments;
- enabling DFID to start engaging in a new sector through a small grant;
- innovating through pilot initiatives;
- funding organisations that do not have the capacity to manage large grants; and
- helping build up the capacity of CSOs.

They can be of particular use in 'difficult environments', when there is little or no collaboration with governments, or in periods before normal DFID programmes resume. In the post-Abacha environment in Nigeria, and currently in Ethiopia, such grants also aim to facilitate partnerships between government and CSOs to ease the political transition, for example by assisting the latter to build up capacity to engage not only in monitoring, but also in advocacy and policy dialogue.

Overall, it is highly practical for DFID to have flexible resources available to support interventions on a number of human rights issues. However, design and management are extremely important, given the problems of measuring the efficiency and impact of such funds, setting clear strategic orientations, overcoming management challenges and ensuring co-ordination with other donors and the FCO. More strategic programmes, such as the Political Empowerment Programme in Kenya (Box 5.14), or funds with clear principles and objectives, as in Bangladesh (see sub-section 5.3) may at times be more appropriate in conducive environments.

### Box 5.13: Varied experiences with Governance Funds in Africa

In **Ethiopia**, the DFID Good Government Fund was in operation from 1999 to support locally-based good governance initiatives. Its main objective was to increase awareness, accountability and responsiveness of government to the public and civil society. Its size was £245,000 in 1999–2000 and £157,000 in 2000–01. It was considered to have funded worthwhile projects, but was constrained by its status as a one-year *ad hoc* fund. In November 2000, the Secretary of State decided to enter into a new development partnership with the government of Ethiopia following the end of the war with Eritrea. A review of the Fund suggested that its scope should be enhanced and criteria for funding should be reviewed.

A new Partnership Fund was then established (\$1.1m from 2001–04), its purpose being to improve partnerships for poverty reduction between government, communities and civil society. Areas for funding were broadened and made more explicitly pro-poor and include: civil society input into the PRSP; pilot projects to improve local service delivery for the poor; improved civil society capacity to contribute to national policy debates; safety, security and access to justice pilots; improved understanding and respect for human rights; and improved media-government relations. Human rights are defined here narrowly as civil rights and activities have included support to a local NGO to monitor and report on human rights violations, and training and discussions with prison officials to improve respect for prisoners' human rights. A review considered that the Fund was doing well.

In **Malawi**, a Human Rights Partnership Fund was established in 2000 (£150,000) and 'replenished' with £100,000 in 2002. It initially served as a pot for the Human Rights Adviser to develop initiatives before a larger programme was designed. It has been maintained, so as to provide responsive funding: for example, it was used to promote a space for informed and balanced national debate on the proposed constitutional change to allow a third term for the President. A more ambitious civil society advocacy programme, TRANSFORM, was closed, partly for political reasons (see Box 5.10). DFID is also funding a number of 'voice, accountability and responsive government' activities through the Tikambirane programme (£11.05m over six years), to be delivered by CIDA and USAID to reduce DFID's transaction costs. It is in the process of developing a new Civil Society Strategy and inputting into a regional strategy. DFID has also recognised the need for the High Commission to have access to resources and has allocated £150,000 per annum out of the Tikambirane programme for a responsive Good Governance Fund.

<sup>2</sup> See footnote 8.

### Box 5.13: Varied experiences with Governance Funds in Africa (continued)

In **Nigeria**, a Good Government Fund was managed by the British Council (BC) starting in 1997, at a time when DFID did not have a programme with government. It funded initiatives such as the Lagos court procedures project, which was later used by USAID to inform its own programme of support to judicial reform. In 2000, it was decided to rename and adapt it to the new civilian political environment. The BC was retained and the Nigeria Governance Fund (£2.4m, three years) was established with the purpose of strengthening the capacity of civil society, parastatals, the legislature and the judiciary to hold government to account.

A mid-term review in 2002 identified a number of difficulties with the design and management of the fund. In particular, the non-prescriptive approach adopted, which left significant discretion to the managing agent, the pressure to disburse, and the grey area between DFID and BC responsibilities, led to insufficient attention to specific output areas and a lack of strategic direction. There have been three calls for proposals, each with a greater strategic focus: general call, including a specific focus to fund access to justice initiatives in the run-up to the development of a larger programme; projects supporting 'demand for change'; and, following a Drivers of Change study, an issues-based approach, promoting coalitions for change.

In **Kenya**, DFID was funding a number of separate small-scale civil and political rights initiatives under the Civil Society Umbrella Programme, managed by the British Council. Following a review, which noted management and donor co-ordination challenges, DFID decided to manage internally some of the projects, and to develop basket funds with donors. The ensuing Kenya Political Empowerment Programme is reviewed separately in Box 5.14.

## Elections and parliaments

### *American Convention on Human Rights*

*Art.23.1 Every citizen shall enjoy the following rights and opportunities:*

- (a) to take part in the conduct of public affairs, directly or through freely chosen representatives;*
- (b) to vote and to be elected in genuine periodic elections, which shall be by universal and equal suffrage and by secret ballot that guarantees the free expression of the will of the voters; and*
- (c) to have access, under general conditions of equality, to the public service of his country*

In recent years, DFID has become more involved with political bodies, recognising that a functioning democracy and competitive, issue-based politics require effective institutions. The issue of political party finance, given the link with large-scale corruption, has been the subject of a recent research consultancy by the US National Democratic Institute. There have been several policy discussions on the appropriate mode of support for the development of pro-poor political parties, and the Westminster Foundation for Democracy has been supported on a number of occasions for such activities.

The review identified a number of programmes to support free and fair local or national election processes. Several organisations are considered to have particular expertise and are regularly used by DFID, such as the International Foundation for Electoral Systems. A guidance document *Elections and the Electoral Process – A Guide to Assistance* (Governance Department, 2003) was produced. Activities identified in a 1999 report and in interviews include:

- civic education, voter education and registration (East Africa);
- poll workers' manuals (Nigeria 1999);
- funding local and international election monitors (East Africa, Pakistan 1997);
- supporting electoral commissions (South Africa Independent Electoral Commission in 1999 and Zambia Electoral Commission in 1998/99);
- sometimes, the direct involvement of DFID staff in registration monitoring (Malawi 2003) or election monitoring (Nigeria 1999, East Africa);
- technical assistance or support for consultations during constitutional review processes (Kenya 2002-03); and
- channelling support through UNDP Trust Funds (Indonesia 1999).

In East Africa, an interesting trend can be noted which includes moving away from separate small-scale projects on political rights, towards integrating them under umbrella programmes. This is accompanied by better co-ordination and sometimes basket funding with other donors, often prompted by the need to adopt a common line towards forthcoming elections. Such programmes require a high degree of co-ordination with High Commissions and require a significant investment of staff time. They enable DFID to develop a better political understanding of country situations as well as links with more 'traditional'

human rights organisations, media and faith-based groups, which might be involved in civic education and election monitoring.

The experience of Kenya is informative. The Political Empowerment Programme provided substantial funding for activities which, together with a change in the political environment, may have contributed to the end of the Moi regime in 2003 and thus created the possibility for a more pro-poor and responsive political system to emerge. Attribution to donors is difficult, and there is a paucity of monitoring techniques for such advocacy activities. Programmes (as opposed to funds) still require a significant degree of personal involvement by DFID staff, but they seem more conducive to achieving improved donor co-ordination and more strategic objectives.

#### Box 5.14: Kenya Political Empowerment Programme

Until 2003 Kenyan politics were dominated by President Moi, who had been in power for over 20 years. Multiparty democracy had made some inroads since 1992. However, KANU remained the dominant party and executive power was highly centralised, with extensive corruption and mismanagement and a decline in social indicators. In 2000, DFID decided to directly manage the successor to the Civil Society Umbrella Programme and established the Political Empowerment Programme (PEP), (£2.2m, three years), with the purpose of enabling poor and disadvantaged men and women to participate more effectively in democratisation and decision-making processes. The programme was brought under the direct responsibility of the Governance Adviser, who was involved in chairing a number of the related donor-steering committees, liaising with the British High Commissioner who chaired the Heads of Missions group, negotiating basket funds as well as approving both small-scale and multi-annual grants. This direct management allowed closer participation in sensitive debates and direct engagement with CSOs, but it was also very time-consuming. The basket funding mechanisms were seen by NGOs as leading to too much micro-management from donors and embassies, but they did lead to larger amounts being used more strategically.

Activities and achievements include:

- the National Civic Education Programme, a basket fund with shared management and implementation arrangements (pooled resources, donor steering committees, a technical assistance team and CSOs consortia);
- basket funds to support the Engendering the Political Process Programme with slightly simpler management arrangements and a Kenyan Domestic Observation Programme;
- though KANU's defeat in the 2002 elections was probably mainly due to internal party wrangling, there is some evidence that these programmes contributed to raising civic rights awareness among the population; the election monitors helped reduce fraud; there was a high participation of poor people in the elections; and the largest number to date of women MPs were elected. Participating CSOs were shown to have benefited institutionally; and
- the programme also provided multi-annual funding to two CSOs, the Institute for Economic Affairs and Transparency International-Kenya (TI-K), for independent policy research. The innovation brought about by the PEP was to lead to the establishment of a 'partnership agreement' with TI-K, to support it through a core funding arrangement to reduce transaction costs after a period of capacity building.

The programme is being extended into a new phase, and an inception review recommended that it no longer focus solely on elections, but also on transformational processes so that men and women can participate more regularly in decision-making related to their daily livelihoods concerns. It recommended linking demand and supply sides differently in a more favourable political environment, ensuring synergies between the various work strands to achieve more than the sum of the individual projects, and simplifying donor collaboration mechanisms.

Some DFID-funded election activities explicitly apply DFID's operational principles, for example 'inclusion'. An example is provided by the support for election processes in Peru, a country programme where DFID has explicitly adopted a 'rights-based approach' (see Box 5.15).

#### Box 5.15: Promoting inclusion in electoral processes in Peru

On the basis of the first Programme to Support the Electoral Process (January to August 2001), DFID prepared a further programme for the 2002 elections with the purpose of making the electoral process for local and regional governments more inclusive of the poor and excluded people in five highland departments of Peru. Outputs were:

- poor citizens and local candidates understand roles, relations and responsibilities of municipal/regional governments and are informed of participative ways of governing;
- candidates are well informed of poor people's demands; and
- newly-elected councillors and mayors are trained, on request, in local government budgeting and accounting procedures to track public funds through the transition phase.



### Box 5.15: Promoting inclusion in electoral processes in Peru (continued)

25 Peruvian institutions took part in the implementation and 19 CSOs formed networks to reach the poorer, remote areas of the departments. A paper from DFID Peru (Franke, 2002) on lessons from the programme highlights the following lessons from the approach adopted:

- *broadening citizenship* – the need for development agencies to understand local democratic political processes and the need to reach out to all stakeholders and key actors, particularly state institutions; and
- *citizenship education* – elections are a good time for this, although it should be seen as an ongoing activity and multiple educational approaches work better, using local languages and related to the local context.

Another important area of work, where DFID is developing a growing body of experience, has been support to Parliaments. DFID guidance for such interventions has been in preparation for some time but has not yet been issued. Two somewhat contrasting examples have been identified (see Box 5.16): working with USAID and DANIDA on strengthening Parliamentary Committees and their links with civil society in Malawi, a country with a somewhat stalled democratisation process; and supporting the development of a strategic investment plan for Parliament and establishing a donor basket fund in Uganda, in line with efforts at donor harmonisation and alignment with the PRSP and Medium-Term Expenditure Framework (MTEF).

### Box 5.16: Strengthening parliaments: Malawi and Uganda

#### **Strengthening the interface between the Parliament of Malawi and civil society**

The purpose of this £3m, four-year programme is to improve the reflection of citizens' interests in parliamentary processes, by enabling civil society networks and accountability agencies to make demands on Parliament, and supporting parliamentary committees to operate better. The programme is co-funded with USAID and (and until late 2001 DANIDA) and is managed by the US-based National Democratic Institute.

Reviews found that there had been some improvements, with committees becoming more active (meeting more often, better organised, more substantive debates) and CSO networks providing information to committees (e.g. on the anti-discrimination and money laundering bills) and more engaged in budget monitoring. However, CSOs were still passive rather than proactively advocating on issues, and committees were not holding parliamentary hearings to seek the views of a wider range of members of the public.

A major constraint has been the political environment and related institutional weaknesses: Parliament only met officially four times between 2001–03, and only for one to two weeks at a time, owing to insufficient funding from the government. Government decreased its allocation as donor flows increased and as committees became more active. Until recently, a DFID Social Development Adviser was the co-chair of the government-donor Task Force on support to Parliament and facilitated dialogue, for example on budget allocation and institutional blockages to parliamentary business. Accountability institutions such as Parliament are not included in the Protected Poverty Expenditures, and it is difficult to advocate for an increase in other spending areas.

#### **Donor Basket Fund to support the Parliamentary Strategic Investment Plan in Uganda**

A DFID Governance Adviser chairs the Parliamentary donor sub-group, a technical group linked to the Donor Democracy and Governance Group. The adviser and his predecessor have been actively involved through consultancy inputs: to restructure the Parliamentary Service so that it may be better positioned to support the work of Parliament; and to prepare and operationalise a Parliamentary Strategic Investment Plan. The environment in Uganda seems to be somewhat more favourable than that of Malawi for such reform, with Parliament a more active body.

The Plan, launched in May 2003, aims to enhance Parliament's capacity to become an effective and independent body that protects and promotes democratic governance, accountability and sustainable development. This includes, under the democracy heading, the objective of 'respecting, protecting and enhancing human rights'. A three-year prioritised and costed programme within the government's MTEF, which sets out Parliament's recurrent and development objectives and expenditure, is being drafted. The Plan has been accepted by donors as the framework within which assistance will be provided during 2004–2006. The establishment of a Basket Fund Facility to reduce transaction costs and enhance ownership by Parliament is being explored.

## Media

### European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)

*Art.10.1 Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.*

*Art.10.2 The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*

Freedoms of thought, conscience, religion, opinion and expression are an integral part of the international human rights framework, and the media have an important role to play here. They should behave responsibly but also be free to represent a range of opinions and provide accurate information. DFID has developed a body of experience to support both the capacity of media institutions and the skills of journalists, as well as in improving state-media relations and the regulatory environment. There are a number of DFID guidance documents: *The Media in Governance: A Guide to Assistance* (Governance Department, 2001); *Working With the Media in Conflicts and Other Emergencies* (Conflict and Humanitarian Affairs Department, 2000); and *Communications and Development: A Practical Guide* (Social Development Department, 1999).

Communication for development is a related field of activity, not reviewed here. Most development activities benefit from using appropriate tools, such as street theatre or radio, to communicate messages to rural communities in the vernacular. Such approaches can be seen as following human rights principles as they make information more 'accessible' and 'culturally acceptable' for those who need it. Responsibility for the media and communication has now been moved to the Information and Communication Department, which focuses primarily on the technical aspects of communication in DFID's programmes.

DFID assistance for the media has covered:

- training of journalists to improve the quality of reporting and management capacity (Bangladesh, Croatia, Ukraine, Kenya);
- funding media organisations as a conflict resolution/post-war reconstruction tool (supporting the Radio OKAPI in the Democratic Republic of the Congo);
- establishing independent public broadcasters (Kosovo and Bosnia-Herzegovina); and
- using the media as part of civic education campaigns (Uganda) or voter education (Nigeria).

Assistance to the media is not always easy, and can be politically sensitive. In Rwanda, for example, given the restrictive legal and policy environment and lack of progress with reform, support to the state media body, ORINFOR, had to be suspended, and a media strategy commissioned instead. Following the 2003 elections, DFID now feels that it may be productive to resume activity in this field. In the Balkans, DFID has funded a number of initiatives to support the development of independent public broadcasters. This is a contentious area, as the US government, another important donor, is advocating purely private sector independent media on the grounds of freedom of expression (see for example discussions at the Southern Eastern Europe Stability Pact Media Working Group meetings).

In media interventions, explicit links can be established with the international human rights system, for example with the European Convention (see Box 5.17).

#### Box 5.17: Russia Regional Media Law Networking Project

The purpose of this three-year, £466,000 project, due to end in 2004, is to reduce the level of interference in local media activities. Information is at [www.medialaw.ru/selfregulation/eindex.htm](http://www.medialaw.ru/selfregulation/eindex.htm). Outputs cover:

- the creation of a network of regional media law centres as information providers and facilitators;
- dialogue between legislators, authorities, the judiciary and media groups; and
- pilot media councils in two regions to offer self-regulation as an alternative means of dispute resolution, and an arbitration council able to adjudicate on media-related complaints.

### Box 5.17: Russia Regional Media Law Networking Project (continued)

The context is the enormous quantity of court cases relating to complaints against the media, in particular defamation cases. Court delays mean that such disputes take a long time to be resolved and, as a result of the imperfections of current media legislation, decisions may not always be fair. Courts in the regions tend not to take account of international instruments such as the European Convention (ECHR). At the same time, media organisations are trying to use the existing legislation to protect their interests, and some have developed their own codes of ethics.

Mass-media self-regulation bodies in the Rostov and Nizhny Novgorod provincial regions have been established, with pilot media complaints commissions: the Arbitration Information Court in Rostov and the Public Chamber on Information Disputes (as well as ombudsmen in media outlets) in Nizhny. These will provide voluntary alternatives to the courts to handle defamation cases; they will not attempt to impose sanctions but promote professional ethics.

Freedom of expression is at the very heart of the project, which takes explicit account of Art. 10 of the ECHR to which Russia is a party, and the case law of the European Court of Human Rights. Art. 10 requires a balance between free speech and legitimate restrictions. The pilot media complaints commissions have just started their dispute resolution activities so there is still no body of decisions to provide examples as to how Art. 10 is applied in practice, but the Convention and the Court's case law will be referred to for guidance. The use of voluntary mechanisms rather than the courts can also offer a better 'balance' and the project will raise awareness of the European Convention amongst relevant stakeholders (i.e. the media, the judiciary, the authorities, etc.). The complaints commissions' codes are based on domestic practice (including the Constitution) and will be inspired by the UK Press Complaints Commission, the German Press Council, and the work of other media regulatory bodies, such as the Office of Communications in the UK.

## Public expenditure management

### *Declaration on the Right to Development*

*Art.2.1 The human person is the central subject of development and should be the active participant and beneficiary of the right to development.*

*Art.2.3 States have the right and duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom.*

*Art.4.1 States have the duty to take steps, individually and collectively, to formulate international development policies with a view to facilitating the full realization of the right to development.*

*Art.4.2 Sustained action is required to promote more rapid development of developing countries. As a complement to the efforts of developing countries, effective international co-operation is essential in providing these countries with appropriate means and facilities to foster their comprehensive development.*

A human rights perspective highlights the importance of equality in the distribution of national resources and in the benefits of growth (see Section 3). Taxation and resource allocation, and public expenditure management processes more generally, are not, however, traditionally considered to be central human rights concerns. In particular there is potential opposition between efficient budget processes and human rights-based claims to national resources based on entitlements, which may be seen as 'absolutist' in nature and not always taking financial constraints seriously. This perception is common, even though international law describes economic and social rights as subject to 'progressive realisation'.

However, human rights have an important role to play in ensuring fairness in the allocation of resources (e.g. removing discrimination on grounds of gender or ethnicity) and that a minimum level of standards in services will be respected and services will be available equally to all, in particular the poorest. Research on the budget, politics and rights commissioned by DFID also showed how setting out clear entitlements (a statutory right with a clear content, for example to access free education in Uganda), as well as standards of delivery, could benefit the poor and establish bonds of citizenship rather than clientelism (Norton and Elson, 2002).

There is an interest in DFID work on financial management also to look into participatory budgeting mechanisms. Such an approach can be efficient and follows 'good development practice'; a human rights perspective highlights that participation is itself a human right and a mechanism for ensuring compliance with the principle of 'accountability'. This is being carried out in some DFID country programmes which have promoted participation in budget processes and in monitoring the use of funds. In the case of Uganda, this links support for civil society participation in the PRSP process to

monitoring the use of resources allocated to the Poverty Action Fund, and thus also to the provision of donor resources channelled through this Fund (see Box 5.18). Lessons could be identified by looking at the work on the ‘social control mechanism’ in Bolivia supported by DFID, which promotes the right to access information locally.

#### Box 5.18: Poverty Action Fund monitoring by the Uganda Debt Network

Since 1998, Uganda has earmarked a proportion of its national budget for pro-poor expenditure as identified in the country’s PRSP, the Poverty Eradication Action Plan (PEAP). This expenditure is allocated to a ‘virtual fund’, the Poverty Action Fund (PAF), which accounts for 36% of the national budget. It started as a fund to ring-fence debt relief (and other donor resources). Approximately two-thirds of it is transferred to districts.

The Uganda Debt Network, an NGO which campaigned for debt relief, set up PAF Monitoring Committees in 17 districts, monitoring district budget allocations and service delivery. This monitoring programme was grounded on two constitutionally guaranteed rights:

- every Ugandan has the right to participate in peaceful activities to influence policies of government through civic organisations (Art. 38(2) of the Constitution); and
- government shall take the necessary steps to involve people in the formulation and implementation of development plans and programmes which affect them (Art. X, National Objectives and Directive Principles of State Policy).

In 2002–03, DFID provided £150,000 to expand the work of the committees to lower levels of local government in four districts, so as to empower the grassroots to monitor the quality of service delivery and participate in decision-making on the allocation of local resources. This includes monitoring the use of locally collected taxes, which are supposed to be transferred back to villages. Some of the positive results have included:

- improved services (reduction in shoddy work, reduced teacher absenteeism, less rudeness by health workers);
- more empowerment (the ‘right to ask questions’ is being established);
- some efforts to get involved in resource allocation decision-making; and
- attempts at replication of these pilots, by other villages and NGOs.

## 5.5 Safety, security and access to justice

### *International Covenant on Civil and Political Rights (ICCPR)*

*Art. 6.1 Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.*

*Art. 7 No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment ...*

*Art. 9.1 Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.*

*Art. 9.3 Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release ...*

*Art. 10.1 All persons deprived of their liberty shall be treated with humanity and with respect for the inherent*

This section reviews how DFID’s innovative work in the area of justice reform – ‘safety, security and access to justice’ (SSAJ) – has integrated human rights standards and principles, including by ensuring that SSAJ institutions are themselves respectful of human rights and can also be used by poor people to claim and enforce their rights. The review did not cover the integration of human rights in support of ‘security sector reform’ (e.g. military). The section covers: policy developments; training and sector-wide approaches; responsive and accountable policing; legal aid, legal literacy and public interest litigation; non-state justice systems; and transitional justice.

### SSAJ policy

As shown in Annex 7, the Governance TSP at times adopts an explicit human rights language. However, such references are less direct in the 2000 Safety, Security and Access to Justice policy statement and the 2002 guidance. For example, the overall goal of SSAJ is not explicitly presented as promoting and protecting human rights (see Box 5.19).

However, improving the institutions of justice and policing is essential to guaranteeing a number of fundamental rights, and DFID’s approach, which focuses on how poor people are treated and affected by SSAJ institutions (rather than the performance of the institutions themselves), is very much

consistent with DFID's 'rights-based approach' which puts the experiences and empowerment of individuals at the centre of the analysis.

#### Box 5.19: SSAJ policy and human rights

The 2000 *Justice and Poverty Reduction statement* gives the objectives of SSAJ strategies as:

- to make all people safe from violence and intimidation in their communities, homes, work and schools;
- to make people's property secure from theft and damage; and
- to ensure that everybody has access to systems which dispense justice fairly, speedily and without discrimination.

The 2002 *Safety, Security and Access to Justice guidance* document discusses human rights briefly and notes that state structures embraced by an SSAJ strategy are pivotal to the legal protection and enforcement of human rights, although in states with a poor history of adherence, human rights are generally poorly understood by those working in the justice system. It says that an SSAJ intervention can help by:

- promoting fairer legal processes such as the right to a fair trial;
- increasing respect for and protection of women's rights as in CEDAW, by addressing sources of legal discrimination against women; and
- improving protection of wider social and economic rights, and states' obligations to fulfil those rights, by improving people's ability to bring successful claims on issues such as housing, education and health.

SSAJ interventions can be developed adopting a more explicit human rights perspective, for example by promoting non-discrimination, effective remedies for victims of human rights violations (including of economic and social rights), and focusing on the accountability of state agents. As is illustrated in this section, current DFID programmes integrate human rights to a significant degree, implicitly or explicitly. However, there is scope for a more systematic approach and for SSAJ policy and guidance to be more explicit on how this can be achieved.

## A sector-wide approach

Human rights have been integrated in some DFID interventions through the provision of human rights training, for example that provided by Nottingham University to human rights NGOs, lawyers and judges as part of projects in Ukraine and Russia, including on European human rights standards. However, a review of policing projects showed that, in general, training on its own is not sufficient and needs to be integrated in institutional development processes (Biddle *et al.*, 1998). This can be done from a human rights perspective, for example through the use of constitutional norms to set standards and measure progress, such as respecting the maximum period allowed for pre-trial detention or ensuring that arrests follow procedures set in law.

The same review recommended that DFID adopt a more strategic approach, not limited to the police but extended to all relevant agencies. One of the innovations of DFID's policy is its adoption of a 'sector-wide approach' rather than focusing on individual agencies; this can also help keep in mind not just institutional improvements but, in line with a human rights perspective, also directly improve outcomes for poor people. This can best be illustrated by the rights of prisoners, such as the need for humane treatment. Prisons are often overcrowded as a result of poor police investigation capacity, slow prosecution and trials, or the inability to pay legal fees. Working to improve the whole justice system can lead to improvements for prisoners. It can also improve respect for civil rights more broadly (e.g. police investigation and detention; judiciary sentencing policy; or equal access through legal aid). These standards should explicitly be kept in mind in order to ensure that the programmes actually achieve human rights improvements. (See Boxes 5.20 and 5.21)

#### Box 5.20: Human rights interventions in Malawi

MaSSAJ is a large and innovative ten-year sector reform programme. Implementation started in January 2002, with £35m of funding approved for the first five years. Its purpose is improved safety of the person, security of property and access to justice. Components under which outputs are grouped include: legal, policy and institutional development; primary level - customary justice fora; democratic (community-based) policing; courts, magistracy and judiciary; and prisons and penal reform. Aspects of the programme that have integrated human rights include:

- *reform of legislation* – support for the new Police Act and Prisons Bill meant that they were brought in line with the new Constitution and the Bill of Rights. The Police Act allows complaints procedures against the police. Wider review of legislation is ongoing, such as draft child rights legislation almost prepared to replace current legislation covering juvenile justice and children in need of care and protection.

### Box 5.20: Human rights interventions in Malawi (continued)

- *use of force by police* – training of police to operate in the new constitutional order and meet new operational standards, integrated as part of the police reform programme. This includes training in investigative interview techniques to avoid excessive use of force or torture in the gathering of evidence. This was delivered jointly with the Human Rights Commission to improve dialogue. Public order training and equipment was delivered to help improve the performance of the police when it manages public outbreaks of disorders.
- *treatment of suspects* – strengthened management processes and custody procedures are being piloted in the Lilongwe Model Police Station before being rolled out nationally. The aim is to meet the 48 hours rule set out in the Constitution and to improve documentation and treatment of suspects. Reports are that the 48 hours rule is being respected in 60% of cases (up from 0% compliance).
- *support for victims* – in particular work being undertaken at District Police station level dealing with domestic and gender-based violence and the introduction at that level of lay committees within local community policing structures to ensure the rights of victims are respected
- *prisons* – investments have led to improving prison conditions, through the establishment of prison farms, reducing the number of juveniles in prisons, and implementing alternatives to prisons, such as through community orders.
- *independence of judiciary* – activities are also underway to strengthen the independence of the judiciary to enhance its capacity to protect constitutional freedoms, such as freedom of association and assembly.
- *Accountability* – work with the Human Rights Commission did not get under way (given existing UNDP funding) and support to the Ombudsman is being delivered through the Norwegian Agency for Development. Other initiatives include the lay visitors scheme or court users committees, which open up state institutions to citizens' scrutiny and dialogue.
- *research* – there is a planned review of policy responses on HIV/AIDS, looking at issues of stigma and discrimination, legal rights and social protection.

## Responsive and accountable policing

DFID's focus on accessibility and responsiveness to the needs of the poor has encouraged the development of various activities to facilitate communication between justice institutions and local communities, for example through the adoption of a community policing model or court users' committees (see Box 5.20). Rather than working just with the police, inter-agency collaboration, including beyond the justice sector, can also help achieve both institutional changes and cultural transformation. A successful example is the UN 2003 human rights prize-winning Jordan Family Protection Project. Experience from Bangladesh, however, shows that reforms to make the police more responsive and accountable can be politically sensitive, and that less ambitious reforms may be needed first (see Box 5.21).

### Box 5.21: Overcoming cultural and political barriers in Jordan and Bangladesh

#### Jordan Family Protection Project

This £2m project started in 2000 and is currently in its fourth (exit strategy) year; its success has been demonstrated by the fact that countries in the region are interested in replicating it. Its purpose is to build the capacity of public and voluntary institutions to develop and implement an integrated strategy to prevent domestic violence and child and sexual abuse. The project started with the Amman Police Public Security Department and was broadened to encompass other agencies, and its first output was to develop a 'human rights-based approach' within the justice system. Activities have included the preparation of a women's shelter; better preventative services for children in a specialised centre adopting a 'child-rights approach'; training health sector staff for initial detection of domestic violence; pilots to introduce child rights into the school curriculum; and training of the media and the judiciary.

Working to address personal security in the private realm is highly sensitive, and requires strategies to change current social values and attitudes, as well as transforming institutional processes. Project successes include:

- *breaking the silence* – a human rights-based approach has been debated and internalised in the Jordanian context. It is recognised that violence against women and children is an international phenomenon that needs to be addressed. The National Council on Family Affairs has adopted a vision of 'family peace' and is developing a National Policy on Family Protection. Awqaf (religious) counsellors are prepared to address family peace and domestic violence in Friday sermons.
- *attitudinal changes amongst agency staff* – family protection work is no longer seen as an added responsibility. Perceptions of victims in the agencies are changing, and they are not seen as responsible for the violence. There has been a significant rise in applicants to work on family protection in the pilot police department.

### Box 5.21: Overcoming cultural and political barriers in Jordan and Bangladesh (continued)

- *policy changes* – the Ministry of Health has adopted World Health Organisation guidance on linking health and the elimination of violence. The Head of the Public Security Department of the Amman Police has issued instructions to all police centres that incidents involving sexual offences against women and children should be immediately referred to the Family Protection Department.
- *interagency approaches and collaboration with CSOs* – the project has established partnerships between a significant number of government departments and with some civil society organisations.

#### **Bangladesh Public Access to Justice Project**

In 1999, DFID designed a project to work on security issues in Bangladesh. Key outputs were to be:

- improvements in police-public relations through a process of participatory learning and action, with funding for collaborative initiatives between police and civil society organisations through an Accessible Justice Fund, supported by technical assistance to the police on managing relations with the public;
- increase in police efficiency and responsiveness through training, in particular on investigations, implementation of a community policing approach, and possible basic capital support;
- increase in police accountability to the public developed through a process of baseline and benchmarking Public Attitudes Surveys and Service Provider Surveys, establishment of, or support to, public groups on policing; and
- increase in protection of human rights through training in human rights issues, including gender issues, for police officers, technical assistance to the police, and awareness raising among the public.

After years of negotiations, the government did not approve the project. This was caused in part by changes in government, and the politically sensitive role of the police. The proposed approach was also seen as too radical, in particular putting forward the idea that people have a right to security, which the government has a duty to meet and in creating mechanisms for the poor to discuss security concerns with the police. DFID has now adopted another approach, working with the UN Development Programme to design a new £20–30m, nine-year programme. Collaboration with other donors is giving DFID more influence. Working with civil society organisations will not be an integral part of the programme, but other DFID funded-activities will support ‘demand’ for justice reform. The document will also use less explicit human rights language.

## Legal aid, legal literacy and public interest litigation

Access to justice is often understood narrowly by DFID’s partners to mean the provision of legal aid (e.g. paying for lawyers to provide legal advice or representation in the courts). This can be a very expensive activity and it can be difficult to assemble coalitions to change national systems (as was learnt in the Nigeria Access to Justice Programme Inception Phase). ‘Legal literacy’ helps build the capacity of the public to know the law and become able to use the courts (or alternatives). Such activities help promote respect for the DFID ‘participation’ and ‘obligation’ principles, as they provide tools for individuals or groups to discover what human rights obligations governments have, in terms of providing security or justice, and to develop capabilities to participate in the justice system as informed citizens.

It is also important to connect the ‘demand’ and ‘supply’ sides, as is illustrated by the Zimbabwe Wills and Inheritance Project, which ran a successful public information campaign, but one which was not complemented by capacity building support for state institutions. The project also demonstrates the importance of law reform to make sure that legal standards are equitable and not ‘anti-poor’, but that this it is not sufficient on its own (see Box 5.22).

Public interest litigation – i.e. strategic litigation in the public interest on behalf of individuals or groups – is another strategy to achieve pro-poor changes. It can generate a more pro-poor interpretation of constitutional and legal provisions, or lead to changes in policies, and is highly relevant for the enforcement of economic or social rights. The review only identified support for the Bangladesh Legal Aid Services Trust (BLAST) as a DFID example (see Box 5.22).

### Box 5.22: Legal literacy and public interest litigation on economic and social issues in Zimbabwe and Bangladesh

#### **Protecting Women’s Property Rights: the Zimbabwe Wills and Inheritance Project**

The purpose of this £860,000, 2000–02 project was to ensure that on the death of a person in Zimbabwe, surviving spouses and dependants could access and utilise the inheritance laws. This would reduce the chances of disinheritance and maladministration and promote equity in the distribution of assets, given that current practice under customary law can leave women with no means of livelihood. The government had made radical changes to the laws to ensure the development of a process of consensus-building with all family members. Projects outputs were:

### Box 5.22: Legal literacy and public interest litigation on economic and social issues in Zimbabwe and Bangladesh (continued)

- enhanced public knowledge of the law relating to inheritance;
- knowledge of the new provisions of the law by the judiciary, court officials, police, traditional leaders; and
- facilitation of discussion and dialogue on the law at community level and identification of issues for review.

The core activity has been the implementation of a communication strategy, which led to increased knowledge across the population of changes in the laws, their relevance for people's lives and how advice and help could be accessed. The project also promoted the importance of legal changes to improve the lives of poor people, and demonstrated to the Ministry of Justice that there are benefits in working with legal and human rights NGOs. The completion report concluded, however, that social and institutional obstacles restricted the impact of the project; expectations were raised, but were not matched by improved service delivery. Key lessons include:

- the period of DFID funding was too short; the campaign should have been repeated as many reverted to custom after the awareness-raising had been done;
- project design did not adequately consider the need to build the capacity of government institutions to provide and maintain the services required. The Legal Aid Directorate was active but is under-resourced; and
- a programme of institutional strengthening for the Ministry of Justice would have complemented the campaign and the education and training processes.

#### **Public Interest Litigation in Bangladesh as a strategy for social change**

BLAST is the largest legal aid provider in the country (with women as the principal clients). It has created a model for the delivery of legal services that is expected to guide government efforts, and has demonstrated the value of independent mediation. It also carries out strategic research and advocacy, and is known for its public litigation work. The purpose of this five-year, £2.93m project (co-funded with NORAD, DANIDA and NOVIB) is to finance BLAST to provide legal services and advocacy for increased access to justice for poor women, men and children in Bangladesh. Outputs aim to:

- expand the provision of free legal services to poor people for the protection of their human rights;
- lobby effectively for reforms in the justice and security sector; and
- develop BLAST's capacity.

BLAST has developed public interest litigation as an advocacy tool and strategy for social change. This is seen as an economically sound approach: setting such precedents can promote public interest in situations where those in positions of power resist change because they know that individuals cannot afford to take action against them. Past cases include a successful challenge to an illegal decision by the Ministry of Fisheries to deprive poor people of their land in favour of commercial shrimp cultivation, and the Gram Parishad case where plans to introduce a politically-biased law were thwarted. Public interest litigation on its own, however, can have limited impact: BLAST was, for example, able to stop some slum evictions – bulldozing peoples' homes without notice – but this has not resulted in a longer-term rehabilitation plan for slum dwellers. The project appraisal recommended that BLAST link legal aid to research and advocacy. Through its legal aid services, BLAST has access to a range of primary data that can be used to undertake advocacy campaigns, developed with partners such as poor people's groups, and to contribute to systemic reform of the justice system.

## Non-state justice and security systems

Research shows that most poor people access justice not through formal institutions, but by using 'non-state', community-based options, such as traditional rulers. DFID commissioned research on this issue in 2002–03 and has prepared a draft guidance note on how to engage with non-state justice and security systems through the state or via CSOs, and outlining a range of policy options. This includes addressing the human rights aspects of non-state systems and working to ensure compliance with international standards, for example by providing assistance to CSOs in helping mediation mechanisms become more inclusive of women or in eliminating inhumane or degrading punishments. A difficult question is when to engage with systems that violate human rights, for example vigilante groups. A body of knowledge is now emerging from DFID programmes, including serious efforts at research and experiences with training (see Box 5.23).



### Box 5.23: Research and training on traditional justice in Malawi and Nigeria

#### **Nigeria Access to Justice Programme: research on human rights**

The Nigeria Access to Justice Programme is a seven-year, £30m programme which began in 2002. The implementing team identified a demand on the part of the poor for assistance to realise their social and economic entitlements, and commissioned research to look into a number of human rights issues. Findings from research in Enugu and Jigawa States include a number of human rights challenges for non-state systems:

- In Enugu, the 'Igwes-in-council' (the highest customary court) was seen as accessible, speedy and fair, but there was a lack of representation of women (not involved in rule-making/conflict resolution), discrimination against the 'non-free born', and preferential treatment for the rich, with the poorest unable to pay the fees.
- In Jigawa, prevalence of customary practice means that land rights are not secure and cannot be used as collateral for loans. Women may not inherit, dispose of, or purchase property equally with men (even though shari'a law provides for equal inheritance rights). The study recommended that traditional rulers serve as intermediaries between vulnerable groups and land registration authorities.

#### **Training in Nigeria and Malawi**

In both these programmes, traditional rulers are part of steering committees, for example the Justice State Reform Teams in Nigeria or the National Council on Security and Justice in Malawi. At the request of traditional rulers, consultative meetings and training sessions have been held. In **Nigeria**, the programme provided assistance to traditional rulers in Ekiti and Enugu states to make the systems more transparent and fairer. Training was provided on impartiality and gender awareness. In Enugu, this helped accelerate a trend of allowing women to join the councils. In Jigawa, the programme provided political space for women's groups to address issues such as unfair access to land ownership under customary practice.

In **Malawi**, pilot training for senior traditional leaders on their roles and responsibilities has included information on international human rights standards, the Constitution and legislation (e.g. decentralisation) as well as on children's rights/juvenile justice, gender, HIV/AIDS and practical conflict resolution skills. The pilots were a response to a demand by the chiefs themselves and the Ministry of Local Government which was concerned about arbitrary decisions taken by chiefs. A recent evaluation of the training showed the following impacts:

- deliberate inclusion of women when promoting village heads to group village heads;
- using the recommended standards when handling land disputes;
- feedback from citizens indicates that they regard the procedures as fairer;
- discussion of HIV/AIDS and gender-based violence in meetings of sub-chiefs and 'subjects'; and
- decision to give widows herbal medicine instead of making them sleep with another man as a cleansing ritual for HIV/AIDS (i.e. changing cultural practices that are against human rights and dignity).

As a result of this positive evaluation, MaSSAJ is looking to extend the training to all districts of Malawi.

#### **Malawi Primary Justice Pilots**

Traditional authorities play an essential role in providing justice in Malawi and there are approximately 28,000 chiefs who act as the first point of call for most local disputes. MaSSAJ will fund primary justice pilots to work with a range of primary justice providers, including not just chiefs and village headmen, but also marriage counsellors, community organisations (e.g. teacher-parent associations), faith-based organisations, community policing fora, district assemblies, social welfare officers and the police. Participatory research has identified a set of issues of greatest concern to the poor which can lead to human rights violations: domestic violence, theft, property grabs of widows and orphans, land disputes and political violence. The pilots will concentrate on facilitating co-ordination between these bodies and improving confidence between the informal and state systems, legal knowledge and referral mechanisms, as well as case recording mechanisms.

## Transitional and post-war justice

Transitional justice refers to mechanisms to deal with human rights during transitions from war to peace, or from authoritarian to democratic regimes. They can include Truth Commissions, trials or other mechanisms to gather information on gross human rights violations, to hold perpetrators to account and to provide redress for victims of past violations, and can lead to institutional reforms. DFID has commissioned research to inform policy and practice, which showed that transitional justice could help address not just civil and political rights (e.g. murders, 'disappearances') but also social and economic rights violations (Alexander, 2003). DFID appears, however, to have limited experience with supporting transitional justice mechanisms. Examples found include:

- in February-March 1999, the provision of £31,250 to support the publication of the Guatemalan Truth Commission's report on human rights abuses during the 36-year civil war, in order to support the ongoing peace process;
- in 2002-04, the provision of assistance to the government-sponsored Truth Commission in Peru and for the expression of the views of the people who suffered political violence. After the Final Report is submitted, DFID will help ensure that state obligations are fulfilled, including by working with local governments to lead the reparations process; and

- interventions in Rwanda to support an innovative participatory approach, *gacaca*, to deal with the large numbers accused of having been involved in the genocide (see Box 5.24).

A related area of work where DFID is developing experience relates to re-establishing justice systems in post-conflict situations or as part of post-war reconstruction efforts (ongoing examples include the Balkans Conflict Prevention Fund Strategy, Sierra Leone, and the Democratic Republic of the Congo). Assistance plans for both Iraq and Afghanistan feature justice and security reforms prominently. DFID has not yet gathered experience from the post-war justice reforms it is funding; such a learning experience could be undertaken and could look, in particular, at how DFID interventions help restore respect for human rights.

#### Box 5.24: Support to genocide justice in Rwanda

Rwanda's justice system was overwhelmed following the 1994 genocide, with for a while up to 130,000 people detained in over-crowded prisons and awaiting prosecution, while the court system had been all but destroyed. DFID provided timely assistance through a number of international organisations, for example to Penal Reform International (PRI) to improve prison conditions (small-scale activities in prison, development of biogas units) and to the Danish Centre for Human Rights to help establish a body of judicial defenders (paralegals to advise the accused in the courts). DFID also supported the work of the governmental National Unity and Reconciliation Commission.

*Gacaca* jurisdictions are being established as alternatives to the formal courts to deal with the genocide caseload. They are participatory grassroots courts where perpetrators will have to confront their communities, without the assistance of lawyers. The aim is to achieve truth, justice and reconciliation. DFID is providing funding to PRI to undertake independent research on *gacaca*. The reports have been extremely useful for better understanding the process, identifying strengths and weaknesses and providing advice to the government. The research was also challenged by the government in that it openly reported the views of survivors and those in prison on *gacaca*. DFID has at times been called on to use its influence to obtain permission for the research to continue, and it attends regular government, donor and NGO meetings to review progress with *gacaca*. In addition, assistance was provided to PRI to help design a system of community service (*Travail d'intérêt général*) for those found guilty, so as to relieve prison congestion.

The challenges of the scale of the proposed new system, the controversy surrounding it, and at times the lack of government commitment, have meant that the community service scheme has not yet been put in place and *gacaca* is still at a pilot stage and was suspended during the elections. This experience shows how important, but also difficult, support for transitional justice can be: these are highly politically sensitive issues, requiring an understanding of domestic dynamics and good donor co-ordination.

## 5.6 Conflict

### Common Article 3 of the 1949 Geneva Conventions

*Art. 3 In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:*

*1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:*

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;*
- (b) taking of hostages;*
- (c) outrages upon personal dignity, in particular humiliating and degrading treatment;*
- (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.*

The report focuses on human rights interventions in development – rather than conflict or humanitarian assistance. This following section is a first attempt at reviewing DFID's experience, and covers some examples of the integration of human rights in DFID-funded interventions in conflict-related situations, in particular to provide civilian protection during conflicts. However, it is not a comprehensive review of all DFID's humanitarian and conflict assistance, which could constitute a

separate exercise. It covers: the policy framework and international standards; support at the global level and in countries; and support for children's and women's rights.

## Policy

There are a number of international standards relating to conflict. International humanitarian law applies in situations of armed conflict, whereas certain provisions of international human rights law protect the individual in war and peace alike. While the purpose of international humanitarian law is to protect victims by endeavouring to limit the suffering caused by war, human rights seek to protect the individual in all situations. Standards include:

- international humanitarian law (the laws of war);
- international criminal law;
- international human rights law – in particular, the 'non-derogable' rights that are applicable in all circumstances, such as the right to life or the prohibition of torture;
- international refugee law; and
- (non-binding) guiding principles for Internally Displaced Persons (IDPs).

The Conflict and Humanitarian Department (CHAD) provides the lead for policy work on conflict and assistance to conflict-related international organisations. There are also conflict advisers in the Africa and Asia regional departments, as well as advisers to country programmes, such as Nepal. Funding is increasingly provided by the Global and Africa Conflict Pools, which bring together resources from the FCO, DFID and the Ministry of Defence.

DFID policy statements on conflict incorporate human rights protection, but the review was not able to identify more detailed guidance. The booklets *Conducting Conflict Assessments: an Introduction* and the *Guidance Notes* (both 2002) provide some general advice but do not spell out international law standards and the Conflict Pools do not have human rights strategies. The Public Service Agreement on conflict focuses on reducing the number of people affected by conflict; this certainly has a human rights dimension but, as with the development objectives, the absence of clear, measurable targets does not help to create programming incentives.

CHAD used to have a Senior Human Rights Adviser, who provided support for the relationship with OHCHR (see Section 3) and for anti-trafficking projects, as well as an international humanitarian, refugee and human rights law perspective for policy areas such as international criminal justice, asylum and IDPs. For example, in May 2001, she participated in the UN High Commissioner for Refugees' global consultation on refugee protection, which allowed DFID to play a role, alongside the Home Office, in promoting a protection agenda, in particular for women and children. This adviser was not replaced when she left her post in 2003.

It would be useful for DFID to undertake a more detailed review of the integration of human rights in conflict situations and in the provision of humanitarian assistance, bringing together experiences from CHAD, the Conflict Pools, the regional conflict advisers and other country programmes. This would help identify current trends, and the need, if any, for a synthesis of good practice and guidance on human rights-based approaches to humanitarian assistance.

## Global and country-level interventions

There is a broad range of work integrating human rights in conflict, principally by working with the international system, rather than making DFID a key actor. It includes CHAD management of institutional support for the International Committee of the Red Cross (ICRC) and for UN High Commissioner for Refugees (UNHCR);<sup>3</sup> the development and dissemination of international standards, such as on IDPs; and country projects which aim to build human rights awareness, monitoring and advice in armed conflict or refugee situations. The work reviewed here is not presented in DFID documentation (and presumably programming) as explicitly linked to the Human Rights TSP and its three operational principles. The focus is on the international obligations of various actors, in particular UN agencies, to undertake protection for victims of conflict.

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<sup>3</sup> As noted in Section 3, CHAD also leads on the management of the ISP with OHCHR, though this is not (principally) a conflict-related organisation.

### Box 5.25: Promotion of international humanitarian law standards

#### **International Committee of the Red Cross: International Humanitarian Law**

DFID has provided substantial support for the ICRC, now in a second phase of £17.5m between 2002 and 2006. A key element of this support is with co-operation with national Red Cross and Red Crescent societies to strengthen their capacity to provide humanitarian services to victims of armed conflict and internal strife, particularly the promotion of international humanitarian law (IHL). In the first phase of support, from 1999 to 2002, the ICRC extended its targeted dissemination programmes with armed forces and police forces and successfully stepped up its efforts for increased ratification and implementation of IHL. A key objective in the current phase of support is to improve the capacity of the ICRC to enhance respect for IHL by the warring parties and to promote and develop this vital body of law with all stakeholders.

#### **Internally Displaced Persons**

CHAD provided £500,000 over three years to the Brookings Institution to undertake research and publicise a handbook which accompanied the UN Guiding Principles on Internally Displaced Persons (IDPs). This was complemented by capacity-enhancing activities, such as with the Georgian Young Lawyers Association, which then developed activities for the Caucasus region. The presence of a CHAD Human Rights Adviser meant that DFID 'spoke the same human rights language' as the Brookings Institution and was able to fund the dissemination of an important new aspect of international standards for the protection of IDPs.

Some DFID support responds to ongoing or recent conflict situations (see Box 5.26), for example: CHAD emergency support for OHCHR field operations in Iraq and Afghanistan; OHCHR activities in Nepal and Cambodia funded by country programmes; and Global Pool funding for activities in Nepal and Sri Lanka.

### Box 5.26: Country-level conflict interventions

#### **OHCHR in Iraq**

A UN human rights field presence in Iraq was mandated in 2003 by both the Commission on Human Rights, which endorsed the findings of the UN Special Rapporteur on Iraq, and a Security Council Resolution. CHAD is providing £400,000 towards such a presence. The key objectives of the programmes are to:

- integrate the promotion and protection of human rights into the humanitarian relief effort;
- meet the basic assistance and protection needs of vulnerable groups;
- raise awareness of basic protection standards among humanitarian players;
- further evaluate and prioritise immediate protection issues in need of attention; and
- develop and strengthen national capacities to promote and protect human rights.

Six human rights officers in Iraq are to be integrated into the UN system (as opposed to a separate human rights mission, such as that DFID helped to fund in Rwanda) to fulfil co-ordination, monitoring, advisory and capacity building tasks, including collating civilian protection data, and monitoring and responding to reports of human rights abuses. The officers are to advise the Coalition Provisional Authority through the UN Special Representative, which will safeguard their independence and objectivity, but also build up Coalition capacity. They are to contribute to building up longer-term capacity, by pursuing the establishment of an independent human rights institution, training Iraqi civil society and strengthening the judicial administration.

#### **Global Conflict Pool activities in Nepal and Sri Lanka**

The Global Pool funded a short-term training mission by the UK Ministry of Defence in **Nepal**, in order to enable the Nepalese army to develop a clearer understanding of its legal obligations to comply with domestic law, the law of armed conflict and international human rights law during the conduct of military operations. The UK government provides military and police assistance to the government of Nepal, which is fighting a Maoist insurgency, and this intervention was a response to allegations of violations (such as summary execution and unlawful detention) made against the army by the international community, NGOs and the media. Violations are also being committed by the insurgents. As recognised by the team, a short training mission is not sufficient: there is a need to institutionalise awareness of international standards in the army, put in place preventative measures, and develop procedures to ensure proper investigations and the accountability of those who commit human rights violations.

In **Sri Lanka**, the UK government is supporting the peace process and emphasising the importance of human rights in reaching a sustainable settlement, in particular raising concern over abuses with the rebels. A senior human rights expert was funded to attend the peace negotiations as a resource for both sides. The British High Commission in Colombo is managing a human rights project with funding from various sources, including DFID, FCO and the Conflict Pool, and a joint steering committee with all three departments. It decided to take forward work in two areas: access to justice and impunity, and governance and capacity building.

## Children and women in armed conflict

CHAD's Global Institutions and Policy Team has also been supporting a range of global interventions with both international governmental organisations and NGOs, which aim to ensure protection for children and women in armed conflict situations. This includes supporting international capacity and advocacy on children in armed conflict by capacity building for UNICEF to adopt a rights-based approach to children in armed conflict; funding the Office of the Special Representative of the UN Secretary-General on children in armed conflict; and civil society funding to support research and reporting (see Box 5.27.).

### Box 5.27: Children and armed conflict

#### **UNICEF Children in Armed Conflict**

With funding from the Global Pool, CHAD is managing the second phase of a £10m, three-year programme of assistance to UNICEF on emergency responsiveness, with a component on adopting a 'rights-based approach' to children in armed conflict. This includes treating child protection not as an additional activity, but developing staff attitudinal changes. Support is also provided to enhance UNICEF's capacity to advocate on behalf of children in armed conflict.

#### **Special Representative of the UN Secretary-General on Children in Armed Conflict**

With Global Pool funding, CHAD is also continuing a second stage of support to the office of the UN Special Representative on Children in Armed Conflict (\$3m for 2.5 years until November 2003). This is not an operational or implementing institution, but acts as an advocate, a catalyst for ideas and approaches, a convenor of key actors within and outside the UN, and, in difficult political situations, a facilitator for operational actors. DFID assistance has covered 40% of the cost of the office, and included the development of an annual work programme for the office, field visits, and high-level advocacy.

#### **NGO Watchlist**

Again with Global Pool funds, a new \$50,000, 2002–04 project has just been approved to develop a comprehensive reporting system on children in armed conflict, to complement the work of the Special Representative.

#### **Research on children affected by organised armed violence**

A global research project in 12 countries managed by a Brazilian NGO, this time with CHAD resources (£70,000 over a year), is about to come to an end.

CHAD also manages support for women's rights in conflict situations, namely, support for UNIFEM to

- develop approaches to protect and assist women affected by armed conflict; mainstreaming gender in UN
- peace operations; and support for NGOs working on women in conflict or women refugees (see Box 5.28).

### Box 5.28: Support for women's rights in conflict situations

#### **UNIFEM Women, Peace and Security Programme**

DFID is providing £3m from May 2001 to September 2004 with the purpose of strengthening national and international approaches to protect and assist women affected by armed conflict and to support their role in conflict prevention, resolution and post-conflict peace-building. Outcomes are:

- improved, targeted information available to national and international actors on the impact of conflict on women and their role in peace-building;
- strengthened approaches to the protection of and assistance for women affected by conflict;
- increased participation of women in conflict prevention, resolution and peace-building;
- better mainstreaming of gender focus in inter-governmental peace and security initiatives;
- a strengthened focus on gender justice in programmes of constitutional, legislative, judicial and electoral reform;
- strengthened capacity of UNIFEM to develop and implement such a programme.

#### **Mainstreaming a Gender Perspective in UN Multidimensional Peace Operations**

Through the Global Pool, DFID allocated £97,000 to this project with the UN Department for Peacekeeping Operations (due to be completed in April 2004). It supports capacity building, field-testing of the approach, and a virtual resource centre to mainstream gender in all aspect of peace operations, using the principles and guidelines developed under Phase 1 of the project.

#### **Urgent Action Fund for Women's Human Rights**

Support for the Fund began in April 2002 (£70,000 over two years). The Fund makes urgent, strategic intervention grants in support of women's human rights in areas where there is a current multinational peacekeeping operation. These can be used to intervene in judicial processes, by providing legal advice or protection.

### Box 5.28: Support for women's rights in conflict situations (continued)

#### **Women's Commission for Refugee Women and Children**

This is a refugee rights organisation which investigates and reports on human rights abuses against refugee women and girls, and acts as an advocate both locally and internationally and an information resource to a range of policy-makers. DFID is providing £32,000 for the period September 2003 to September 2005 to a project looking to develop a monitoring and reporting system on refugee and internally displaced rights abuses and protection issues, focusing on four sites, including Sierra Leone, Colombia and Afghanistan/Pakistan.

## 5.7 Social Sectors

This section reviews attempts at integrating human rights into health, education and, briefly, social policy. DFID's education and health policies are based on achieving the Millennium Development Goals. The three human rights principles (participation, inclusion and obligation) as set out in the Human Rights TSP have been used as the basis for many of the interventions that are described below. However, the integration of human rights into DFID's health and education policy is only just beginning to be explored in specific areas.

### Health

#### *International Covenant on Economic, Social and Cultural Rights (ICESCR)*

*Art.12.1 The State Parties to the present Covenant recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.*

*Art.12.2 The steps to be taken ... shall include ...:*

- (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.*

DFID's policy on health as set out in the 1997 White Paper is linked to the relevant International Development Targets (IDTs) and now to the MDGs. It does not discuss links to human rights standards or principles in the discussion of the health targets, which are: halving child mortality rates; and reducing maternal mortality by three-quarters and ensuring accessible reproductive health services.

The Health TSP, *Better Health for Poor People*, describes health as a fundamental human right as reflected in the Universal Declaration, but does not mention legally binding standards, such as that of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Overall, human rights standards and operational principles do not seem to have been taken into consideration in DFID's policy on health, though a focus on universal access at the primary level is a way of implementing human rights principles. However, interviews with the various policy teams dealing with aspects of the health policy highlighted the fact that there are a few areas where the relevance of human rights is beginning to be explored. For example, there is work on developing a human rights-based approach to addressing maternal mortality (planned), and looking at issues of HIV/AIDS-related stigma and discrimination (starting).

A number of health programmes have applied the TSP human rights principles, in particular promoting participation and inclusion, and also improving state-society relations (see Box 5.29). Lessons include that:

- this approach can promote local accountability and empowerment;
- promoting equity is a challenge;
- there is tension between encouraging local participation and the top-down planning promoted by a 'health systems approach'; and
- there is a need to integrate constitutional standards or patients' charters into programmes.

### Box 5.29: The use of human rights principles in health projects

#### **Peru's Improving Health for the Poor: a rights-based approach**

The August 2000 Project Memorandum for this project uses the DFID human rights principles as the cover of the submission. The goals are to improve the health of the poor and excluded population of Peru and to enforce the relationship between the state and society, the purpose being to strengthen society's relationship with the state and with the health sector, promoting poor people's right to health. Outputs are:

- health care policies and institutions respond, protect and promote the right to health of poor and excluded communities;
- citizens and health care providers have agreed and implemented participatory mechanisms for the planning, provision and evaluation of health services; and
- multilateral organisations (the EC, World Bank, IDB), bilateral co-operation, the Ombudsman and civil society learn and internalise the lessons of the programme.

The strategy involves developing local and national interventions that make it possible to learn from experience and to implement policies incorporating a 'rights-based approach' to health, by being focused on a more equitable distribution of resources and more accessible services.

#### **The Local Initiatives for Health Project in Malawi**

This £1.086m project is implemented by CARE and is described as a learning project to inform the health SWAp, with which DFID is also involved. The project has links with the development of the PRAMs project in Malawi and its purpose is to enable rural communities, particularly women and vulnerable households, to participate in decision-making processes on health issues and health services. More recently efforts have been made to disseminate some of the results of the project; this has provoked interest, particularly in the work on accountability relating to drugs and corruption. The May 2003 mid-term review identified a number of issues with regard to human rights:

- a degree of empowerment and accountability has been fostered at the local level, but there is still a need to include an explicit linkage to human rights and a focus on issues of equity (non-discrimination and vulnerable groups);
- a scorecard methodology has been developed as a means of assessing equity of access with regard to disadvantaged groups; it was suggested that this should be extended to include groups such as female-headed and orphan-headed households, people living with AIDS, the elderly, and people with disabilities; and
- while the project does integrate human rights principles, it was suggested that linkages be developed to the Constitution and to a draft 'patients' charter' prepared by the Consumers' Association of Malawi, a process that is now under way.

#### **The Nepal District Health Strengthening Project**

This project ran from 1997 to 2003 and incorporated human rights principles, specifically participation and obligation. The purpose was the provision of quality health service delivery, and utilisation in the project districts improved in ways which can be replicated elsewhere. The outputs were:

- effective systems for the preparation and implementation of locally appropriate district health plans and budgets developed in the project districts, and for better management of existing human, financial and physical resources and supplies developed in the project districts;
- the capacity of communities and their representatives to participate in the management and planning of, and to make effective demands on, a variety of services was strengthened; and
- project lessons were made available to key stakeholders (particularly the Ministry) to help them reform health policies and improve services.

The first mid-term review in February 2000 highlighted some of the contradictions between the different outputs. For example, while it was envisaged that outputs one and two, focused on the development of better health systems, would encourage 'bottom-up' planning involving local communities, the overall 'top-down' approach to planning, with centrally set targets and budgets was found to have limited this participation. Proposals were made to encourage participation through further decentralisation. A project-scoring summary review carried out in November 2002 found that, despite the effects of the developing conflict, the project had managed to achieve a significant increase in visits to health facilities and in immunisation coverage.

There have been some attempts to work (or develop strategies) at country level on HIV/AIDS from a discrimination/stigma rather than a medical point of view (see Box 5.30).

### Box 5.30: Work on HIV/AIDS and discrimination in China and South Africa

Working in a more constraining environment, some of the work on HIV/AIDS in DFID **China** looks in particular at issues of discrimination in the provision of services and care. The China-UK HIV/AIDS Prevention and Care project aims to engage with primary stakeholders, communities and NGOs as part of a comprehensive national, provincial and local response to HIV/AIDS. The purpose of the project is to develop replicable models of HIV/AIDS prevention, treatment and care for high risk and vulnerable groups, in order to influence national policy. A review found that there had been some success in engaging with primary stakeholders, although there were still problems in identifying and locating groups who are particularly discriminated against, such as commercial sex workers, men having sex with men, injecting drug users and people living with HIV/AIDS. Some groups of people living with HIV/AIDS have been established and work continues to strengthen primary stakeholder participation.

An internal DFID paper on recent programme discussions in **South Africa** on HIV/AIDS highlights the importance of the issue to the country's development. An approach is proposed, using a people-centred or 'rights-based' paradigm, which allows citizens to seek and obtain equal rights and to exercise those rights, and which obliges the government to fulfil its obligations to its citizens. This is used as the basis of a more holistic analysis of the impact of, and response to, HIV/AIDS in southern Africa. It is argued that the scale and reach of HIV/AIDS mean that it 'has multi-level and multifarious long-term impacts', resulting in the need for 'a conceptual framework and paradigm which adequately reflects this'. Such an approach is similar in many ways to the analysis used in gender mainstreaming. As a result of this broader, rights-based analysis, it is suggested that HIV/AIDS be mainstreamed.

## Education

DFID's policy on education, as set out in the 1997 and 2000 White Papers, is linked to the relevant IDTs/MDGs, namely, universal primary education by 2015; and eliminating gender inequalities in primary and secondary education by 2005. DFID's specific response to these targets includes promoting human rights principles in support of the fundamental aspects of an effective education system, namely, access, quality, retention and equity. The Education TSP recognises the right to basic education as a human right and refers to the UDHR and CRC (though not to Art. 13 of the ICESCR). It makes a commitment to developing a better understanding of a rights-based approach to universal primary education, including monitoring of CRC's Art. 28, but there is no mention of domestic enforcement mechanisms.

As with health, work to develop DFID's policy on education has focused on the three human rights principles: access to ensure *inclusion*; *participation* in school management; and quality as an aspect of *obligation*. The Education for All policy team has begun work on the issue of quality although, in the absence of international standards, there are problems in defining this. Overall, there is no widespread 'rights-based approach' to education, and the integration of human rights is mostly done by promoting local-level participation. However, as with health, a focus on universal primary provision is consistent with a human rights approach, even if not always widely identified as such in interviews for this review.

A number of projects have worked to mobilise and build up the capacity of communities to become involved in supporting, managing and monitoring primary education provision, an approach which has been called 'Whole School Development' (see Box 5.31). There are fewer examples of projects looking at inclusion. In Bangladesh there is the Underprivileged Children's Education Programme, which aims to provide formal and non-formal education and skills for urban poor working children, as well as advocacy and lobbying in support of child rights. Support for Minority Education in Yunnan Province, China, has the objective of improving access to quality basic education for minority girls and boys from remote areas. Also mentioned was work in Ethiopia to provide a bridge between non-formal and the formal education systems.

### Box 5.31: The Whole School Development approach in Africa

The **Nigeria** Community Education Programme was a pilot project to explore sustainable means of encouraging community responsibility and support for education and to provide a model for future assistance from funding agencies and possible implementation by the government. It has shown that progress in enrolment, retention and learning achievement of both boys and girls can be made if civil society is engaged from the outset and inclusive, participatory approaches are used. This project is now being scaled up as part of the World Bank's Universal Basic Education Project.



### Box 5.31: The Whole School Development approach in Africa (continued)

In **Ghana**, as part of the Education Sector Strategic Plan, a Whole School Development programme was initiated to provide good quality basic education to all children. It includes School Performance Appraisal Meetings that have helped to raise community awareness of children's performance and the need to support children at school level. District officers reported that such meetings were proving to be one of the most effective ways of mobilising community support for basic education. The review team found them to be an effective instrument for ensuring the high performance of district circuit supervisors and teachers.

In **Tanzania** the ActionAid Community-based Basic Education Project was designed to enhance provision of basic education for poor people, especially girls and women, in three of the poorest divisions. It provides basic education for both children and adults, and teacher training. The human rights aspect of the project lies in the capacity building of communities for managing basic education. It also aims to increase women's representation in local institutions, as well as encouraging greater representation of poor people in various organisations. The formation of school management committees aims to increase involvement in school planning and monitoring.

In **Malawi** the focus is on embedding Participatory Rights Assessments within the Education Sector Support Programme with the aim of strengthening the capacity of CSO networks and District Assemblies to pursue and mainstream right-based approaches to district education planning. CARE International, through its Partnership in Capacity Building in Education Programme, is the implementing partner working with civil society networks, the Ministry of Education and the Department for Local Government to institutionalise and mainstream 'rights-based approaches' in the context of School Improvement Planning (Social Contracts) and increased community participation in school management. (This is a PRAMs pilot project – see sub-section 3.3.)

## Social policy

### European Social Charter

*Art. 12 With a view to ensuring the effective exercise of the right to social security, the Contracting Parties undertake*

*(1) to establish or maintain a system of social security;*

*(2) to maintain the social security system at a satisfactory level at least equal to that required for ratification of ILO Convention 102 Concerning Minimum Standards of Social Security.*

The review also identified an interesting case study on social policy in the Balkans. Its key feature is that DFID is working in the context of EU engagement processes which have a specific focus on human rights, as well as with the World Bank-led reform process, where there is a reluctance to engage with human rights. DFID's approach has been to work somewhere between the two, attempting to influence the Bank by demonstrating practical approaches to social policy reform that are based on human rights principles, and in particular social inclusion (see Box 5.32.).

### Box 5.32: Reforming the systems and structures of Central and Local Social Policy Regimes in Bosnia Herzegovina (BiH)

The purpose of this £4m programme (2001–05) is to promote effective and efficient social policy at all levels in a way that is fiscally sustainable, demonstrates social innovation, and contributes to the reduction of poverty, inequality and social exclusion. The programme has adopted a holistic perspective that aims to:

- improve social policy planning, and the social administrative and management issues of entity-level institutions;
- strengthen municipal/cantonal social policy management and social services delivery; and
- foster and enable community-level partnerships, and community action projects between civil society actors and municipalities in four pilot areas.

There has been a broad range of interventions in BiH to strengthen the social policy regime and the way services are delivered by various actors. However, there has been no attempt to connect different levels, with a concerted focus on strategies for the reduction of poverty, inequality and social exclusion. The programme seeks to redress this omission by focusing on systemic and structural relationships between three core levels of the social policy regime in BiH:

- the macro level, with regard to government social policy structures, systems and structures;
- the meso level of municipal social policy management and service delivery; and
- the micro level of community action projects and community-level partnerships between municipalities and civil society actors.

## 5.8 Livelihoods

### *International Covenant on Economic, Social and Cultural Rights (ICESCR)*

*Art. 11.1 The State Parties to the present Covenant recognise 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. The State Parties will take appropriate steps to ensure the realisation of this right, recognising to this effect the essential importance of international co-operation based on free consent.*

*Art. 11.2 The State Parties to the present Covenant, recognising 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) ... to ensure an equitable distribution of world food supplies in relation to need.*

This section reviews efforts by DFID to identify complementarities between a sustainable livelihoods approach (SLA) and a rights-based approach (RBA). The section reviews how the linkages between the two approaches have been examined: at the policy level; in research in Africa and Asia; in country programmes in Brazil and South Africa; and at the project level in Africa, focusing in particular on how to address basic rights of access to natural resources. DFID work on environmental rights, land rights, housing rights or the right to food has not been systematically reviewed but would deserve some further investigation.

The analysis presented here indicates that some of the benefits of adopting a RBA in addition to a SLA are that it:

- introduces a focus on power relations, and on the importance of policy processes;
- further encourages the use of participatory approaches in planning; and
- helps establish mechanisms for poor people to hold service providers to account, in particular at the local level.

Promoting inclusion in addition to participation seems to have been more difficult to achieve. Linkages with explicit international or national standards are seen as less useful. The research shows the tension between locally-defined rights (e.g. customary land rights or collective rights to natural resources) and constitutional or statutory rights.

### Policy

Considerable efforts were invested at a policy level in DFID in the mid-1990s in developing the SLA, which is aimed at clarifying the links between natural resources, the environment and poverty reduction. The approach figured prominently in the 1997 White Paper, which emphasised the need to manage and maintain different sorts of 'capital' to promote sustainable development: 'created' capital, 'natural' capital, 'human' capital and 'social' capital. It has been widely disseminated through a variety of channels such as: [www.livelihoods.org](http://www.livelihoods.org) and [www.keysheets.org](http://www.keysheets.org) (which includes a keysheet on rights-based approaches)

More recently a range of initiatives have been taken to understand the linkages between a SLA and a RBA. An important step was the report *To Claim our Rights* (Moser and Norton, 2001), which has been used to inform thinking in country programmes. The April 2002 version of the Consultation Document, *Better Livelihoods for Poor People: The Role of Land Policy*, was also very explicit on the practical difference using rights could make, but the document has been further amended and is still not approved. It may be valuable to build on the suggestions made in that version of the draft document, and the findings of the various activities reviewed below, to provide practical examples.

### Research

Research programmes on livelihoods in Southern Africa, East Africa and South Asia in part explored some of the linkages between the SLA and RBA (see Box 5.33).

### Box 5.33: Research on rights and sustainable livelihoods approaches

#### **Sustainable Livelihoods in Southern Africa** ([www.ids.ac.uk/ids/env/slsa](http://www.ids.ac.uk/ids/env/slsa))

This three-year collaborative research project was carried out in Mozambique, Zimbabwe and South Africa. The report, *Rights Talk and Rights Practice: Challenges for Southern Africa* (SLSA Team, 2003), looks at the practical implications of a RBA when applied to key natural resources such as land, water, and common property resources. The analysis is backed up by detailed local research on perceptions of rights and the institutions and mechanisms that are available to people in seeking to claim their rights. Some of the most interesting conclusions reached are:

- A broader definition of rights, beyond the conventional Western-liberal, individualist approach and based on people's own conceptions, is important as it can incorporate cultural, religious and ethnic dimensions, as well as material needs.
- Appropriate legal mechanisms are required to uphold such collectively-held rights, and these may not be based on conventional private-property rights concepts. However, it is not always possible or appropriate to legislate land rights and design administrative systems that take account of the complexity of land-holding systems, and emphasis needs to be placed on institutions and processes rather than formal legalistic rights frameworks.
- Ignoring power and politics in institutional design results in certain failure in claiming rights and their capture by those with power and resources. Reinforcing state capacity, competence and legitimacy is a key component of encouraging a rights-based approach. Equally important is the access of poor people in rural areas to the type of resources required to claim rights effectively in order to ensure voice, demand and accountability.

#### **The Livelihood Options Study in South Asia** ([www.livelihoodoptions.info](http://www.livelihoodoptions.info))

Research was carried out by ODI during 2000–03 in Bangladesh, India and Nepal, with the aims of identifying how policies can be changed to support rural diversification, and how negative impacts can be reduced. The potential influence of livelihoods analysis on policy were considered and it was concluded that while such analysis can provide valuable information on the effects of policy and the need for policy change, further work is required to understand policy processes. Human rights were integrated by looking at specific 'entitlements' provided by the state and at people's capacity to voice demands and to influence the type and quality of service delivered, looking particularly at micro-finance, employment and safety nets. The project developed a 'key sheet' on RBA.

## Programmatic approaches

In a number of country programmes, work has been done to develop links between livelihoods and rights (see Box 5.34)

### Box 5.34: Linking the livelihoods approach with rights in Brazil and South Africa

Work in DFID **Brazil** taking forward the SLA and linking it with a RBA was led by the Livelihoods Adviser, and supported by IDS. A number of papers detailing this experience have been disseminated. They highlight the practical opportunities of linking the two approaches. Findings include:

- the SLA, and particularly the five types of capital, is easily understood and easy to use in practice;
- work in SLAs on 'policies, institutions and processes' emphasises the practical complexities of taking forward a RBA in the context of legal rights to tangible resources such as land;
- RBAs are important in terms of introducing power issues into SLAs, for information gathering and analysis under the title of 'political capital' – an addition to the original framework;
- citizenship is a concept that is well understood in Brazil, linking rights with responsibilities. This has been used as the basis for a new working definition of sustainable livelihoods, as being made up of a combination of 'capacity, resources and activities necessary for citizenship and well being without degrading the resource base'; and
- a combination of the two approaches has been found to be of value in work with planners: the SLA provides a framework for understanding context, and the RBA provides guidance on how this might be implemented.

Work has also been carried out in **South Africa** on how the two approaches might complement one another, reflected in a short paper, *Rights-Based and Sustainable Livelihoods Approaches: Divergences and Convergences* (DFID South Africa, 2001). Its findings include that the RBA is more explicit about the importance of changing power relations if poverty is to be addressed; it raises the issues of mutual obligations between people and the state, stressing the need for rights to be accompanied by responsibilities; and it is stronger in its expression of equality and issues of social exclusion. However, the SLA is more explicit about issues of sustainability.

## Approaches in projects

There is also a range of examples from country programmes in Africa of specific interventions exploring practical RBAs in the setting of work on sustainable livelihoods, including in Nigeria, Sierra Leone and Malawi (see Box 5.35).

### Box 5.35: The practicalities of linking SLA to RBAs in projects in Africa

#### **Jigawa Enhancement of Wetlands Livelihoods Project, Nigeria**

The overall purpose of the project is to bring together key stakeholders to form negotiating platforms for developing and implementing strategies to overcome key problems in the management and utilisation of common property resources. The outputs include improving understanding of access rights issues among identified stakeholders.

The work comprises an inception phase with local assessment of rights and increased awareness of the need to build up the organisational and institutional capacities for rights realisation; and a pilot project phase during which platforms for stakeholder interaction will be developed to allow for the assertion of views and rights, and ways of supporting public institutions in fulfilling their duty to deliver services effectively. A recent review highlighted that the approach adopted was based on promoting people's realisation of their access rights to common property resources, the capacity to negotiate around these rights, and participation by various levels of government and communities in sustainable and equitable management of resources.

#### **Oxfam Malawi Shire Highlands Sustainable Livelihood Programme**

The purpose of the £1m project (managed by OXFAM) is to support and facilitate the participation, inclusion and obligations of citizens, state and other development agents to protect, respect and fulfil human rights in order to enable poor citizens in three districts of the Southern Region of Malawi to improve their livelihoods. Outputs include:

- people, especially women and marginalised groups, should actively participate in their development and governance by demanding applicable and accountable services, based on a clear understanding of their rights and responsibilities; and
- service providers (CSOs, government, private business, donors) should provide services and resources in a transparent and accountable manner, based on a recognition of people's rights and responsibilities.

The programme design has a strong learning approach and an emphasis on advocacy and information dissemination, with the aim of informing the development of SWaPs in the livelihoods sector by establishing a conduit for poor people's voice, particularly that of women and disadvantaged groups. It has provided human rights training by focusing on concrete local issues, such as land grabs or inheritance. A review found that it had underestimated the challenge of promoting equity: the very poorest do not have the same ability to take risks and benefit from new technologies; other approaches, in addition to participation, are needed to ensure their inclusion on equal terms. The programme aims to replicate and scale up the approach developed in Mulanje District on 'Institutionalising Participation for Sustainable Livelihoods' in two further districts, with a view to informing and shaping the Malawi decentralisation process.

#### **CARE Sierra Leone Rights-Based Approach to Food Security**

This project is being implemented over three years (January 2002 to December 2004), with funding from a number of sources including DFID. It aims to provide food security, support and facilitate the formation of democratic mechanisms that promote and protect human rights. The current project was based on pilot work that addressed rights and justice issues concerning access to humanitarian food security inputs. In the past humanitarian assistance had been distributed in collaboration with Village Development Committees, which often resulted in misappropriation of inputs by these committees. CARE's work has facilitated dialogue centred on the development of community mechanisms to ensure the accountability of their representatives on the committees. The way the project addresses these issues combines more traditional approaches to seed distribution and exchange in conflict-affected communities with innovative initiatives to raise awareness of rights and to increase the accountability of the Committees.

The pilot project is based on extensive action research by CARE in Sierra Leone working with researchers from Wageningen University on local perceptions of the causes of the war. The results of the research have suggested strategies to prevent its recurrence, including:

- the re-establishment of food security for all citizens;
- justice, in the form of the institution of an inclusive, democratic governance system capable of protecting the rights of citizens; and
- equitable access to resources, awareness of rights and dealing with governance problems.

## SECTION 6

# Conclusions and Recommendations

## 6.1 Conclusions

### Overall findings

The key finding of this review is that DFID is supporting a large body of interesting and innovative work on human rights at international, national and sectoral / thematic levels and in differing country contexts. A great deal can be learned from this work, and this wide-ranging review is only the first stage in a process. More in-depth analysis and discussion, including with DFID's partners in the field, could lead to the preparation of more practical guidance.

There seems have been a focus in policy and planning processes, as well as country programmes and projects, on human rights *principles* rather than on the full body of international, regional and national *standards* and *mechanisms*. In particular, the focus has been on DFID's first two operational human rights principles: *participation* and *inclusion*, which are associated with a range of important empowerment activities. While there are a wide range of interventions that focus on the third principle of *obligation*, in general DFID's work does not tend to be set explicitly within the framework of analysing and helping partner states to meet their international and national human rights obligations. There has also been little work explicitly using the *rights-holder/duty-bearer* distinction.

At present, the MDGs and PRSPs set objectives and standards for DFID corporately and for country programmes. For a number of reasons, there appears to be a lack of consistency across the organisation with regard to the commitment to integrating human rights. Such work is also not always co-ordinated, and conceptions of what human rights mean for development sometimes vary. This has an effect on how human rights are translated into regional and country priorities. However, there is an important constituency of staff, across various departments and backgrounds, who have an interest in and are developing innovative work, and would appreciate further guidance, tools and support.

The use of the UN common agreement reached at Stamford in May 2003 as the basis for DFID's approach to human rights would possibly enable a broader understanding to be developed across the organisation. Such an approach would use as its starting point the international consensus on standards and mechanisms as well as a broader UN list of human rights principles, linking this more directly to state processes. Alternatively, unpacking the various meanings of the 'obligation' principle would make the approach more accessible to DFID staff.

### Policy level

The White Papers and the TSPs, and particularly the Human Rights TSP, show a commitment to human rights in DFID. The Human Rights TSP, with its operational framework, is valued by a significant number of the people interviewed and has been used extensively in the development of the strategies and interventions reviewed here. It is also clear from the interviews that a number of policy teams are planning further work on human rights, with a number of debates seen as highly relevant to many staff (in particular on inequality, aid instruments and dialogue).

However, at present, there seems to be a lack of a clear strategy at the centre about the priority to be given to human rights within the organisation and in its programmes. The Public Service and Service Delivery Agreements targets do not explicitly include human rights standards and do not refer to the international instruments, apart from references to gender equality in education and broad references to social inclusion and governance reforms. As a result of the lack of clear guidelines and specific targets, there are considerable differences between the Directors' Delivery Plans and in the Country Assistance Plans.

DFID clearly works extensively with the UN system, both internationally and at a country level, and this co-operation has helped shape the international agenda around human rights-based approaches. DFID could do more to integrate into its own practices some of the initiatives it is funding. For example, there is limited awareness amongst staff of the international human rights system, which DFID supports through OHCHR. In addition, the review was not able to identify much work with regional human rights mechanisms or national institutions.

There also seems to be limited awareness of the UK government's own international obligations and how these might affect DFID's work. Such issues are beginning to be explored, for instance in the Overseas Territories debate over responsibility for the extension of human rights, and the respective roles for DFID and the FCO in that process.

## Centrally-funded initiatives

A substantial body of work has helped to influence the international environment and debates on human rights-based approaches, such as the Partnership Programme Agreements with international NGOs like Action Aid or Save the Children–UK, and work with the International Labour Organisation and the UN system. DFID has made a significant contribution to building up the capacity of the secretariat of the UN human rights system, the OHCHR, and to UNICEF's ability to develop its 'human rights-based approach to programming'. Research has also been important, for example in exploring linkages with citizenship, livelihoods or budget processes.

This work does not, however, always translate into the rest of DFID's policy or country programmes, and projects such as PRAMs have not yet provided new methodologies. Many staff would appreciate more practical tools, which could be developed from this work.

## Country analysis and strategies

There are a number of different ways in which human rights principles and standards have influenced the development of country strategies, including:

- as a framework that informs the overall strategy;
- in setting out principles for partnership, which can impact on the nature or scale of aid;
- in using a human rights analysis to inform new strands of work; or
- in initiating new learning interventions.

The way in which principles and approaches are used is very dependent on the country context as well as on the staff in the country team.

The integration of human rights in new forms of conditionality, political dialogue, and aid instruments is an issue that concerns a number of countries, and about which staff have expressed a particular interest. Highly topical is the issue of DFID's responsibility for the respect of human rights in the countries it assists through budget support, as well as mechanisms to hold DFID and the aid community as a whole more accountable for the impact of aid on human rights. There is also a range of experience in country programmes of working to influence other key development players, in particular multilaterals, and new co-ordination mechanisms.

## Programming

Like the country programmes, at a sectoral/thematic level there is a range of interventions, using human rights in different ways. Examples from governance interventions show that many are relevant from a human rights perspective but are not always understood as such; an explicit decision is required to make sure that this is the case. The direct relevance of justice sector reform for human rights, through the promotion of the principles of accountability and the rule of law and the availability of enforcement and redress mechanisms, is also not always recognised in DFID, but there are a number of DFID examples that show how this can be done.

Given DFID's statements on the importance of economic, social and cultural rights, there seems to have been a limited number of activities in the social sectors reviewed here, apart from the significant amount of work on core labour standards. The adoption of an explicit 'rights-based approach' has been associated with local participatory activities, for example in the education sector ('whole school management'). This can be challenging, and there are examples of tensions in health projects between a top-down 'health systems' approach and a bottom-up rights perspective. Experiences comparing

livelihoods and human rights approaches have shown that the latter help to bring ‘power relations’, the importance of policy processes, state-society relations, genuine participation and local-level accountability back into the frame.

Inclusion, equity and non-discrimination have been a major strand of work, mostly on gender equality, but also on children’s rights, together with protection during conflicts, in particular of women and children. There seems to have been much less work on racial discrimination, and there is an absence of a policy framework and only a few examples of work with minorities and indigenous peoples, though there are NGOs that could provide expert assistance to DFID. Participation has also been easier to promote than equity in livelihoods activities.

Taking forward human rights in country programmes is sometimes linked in DFID to the presence of an active adviser rather than their being institutionalised. In most cases staff feel the need for clearer guidance from senior management. More importantly, there is also the need for more technical support in being able to develop a human rights-based approach in programmes.

Monitoring and evaluation using a human rights framework are in general weak at both the project and the country programme level. This is an area where further work on engagement with processes more directly linked to human rights, possibly with the UN, could be of value.

## 6.2 Value-added of human rights for poverty reduction

This section brings together some lessons drawn from the activities reviewed. It draws out the specific contributions (or ‘value-added’) that taking human rights explicitly into account makes to poverty reduction and achieving the MDGs. This is not a comprehensive list, and more work is needed to draw lessons and develop guidance.

### Normative value

The main value of a human rights-based approach is that it provides a normative framework, which sets out clear international standards and focuses attention on what is important for poor people and communities, looking at issues such as basic dignity or minimum standards. This leads to a focus on excluded groups, discrimination and access to services. However, because it is a normative approach, it can at times be off-putting, as it suggests that certain principles and standards simply ‘have’ to be taken into account. It may also seem inflexible, as it is associated with the requirement of not condoning gross and systematic violations, and not providing support to governments in extreme cases, such as DFID’s decision not to work directly in Burma.

This difficulty can be overcome by focusing attention on the international human rights system, the processes of consensus-building through international conferences, and the human rights advocacy work of local organisations, which suggest that these are shared fundamental values rather than individual moral or political preferences. For example, in China, following the Beijing Conference, there are opportunities for government and donors to work together, along with civil society, on issues of gender equality, which UNIFEM is leading.

The international human rights framework is also often reflected at the national and regional levels (for example, in Constitutions or domestic legislation). This provides the basis for establishing mechanisms that can hold state actors and others accountable for their actions. Constitutional standards are of particular importance, such as, for the MaSSAJ programme, the provision that sets out how long a person may be detained by the police and which has been used to identify an area for improvement as well as a clear, measurable objective.

A human rights-based approach puts forward a framework that aims to transform the relationship of the state with its citizens, enhancing the accountability of the state for its human rights obligations, empowering citizens to claim their rights and entitlements, and thus strengthening the ‘social contract’. People are no longer seen as beneficiaries with needs, but active citizens with rights and responsibilities. Such an approach may be an engine of pro-poor development. Though not always set in human rights language, work on public expenditure management can help strengthen such relations. For example, in Uganda, DFID is helping the Uganda Debt Network facilitate monitoring by district-level committees of the ways that resources allocated to priority pro-poor sectors are being used in practice.

As a normative framework, human rights considerations can make a difference in terms of DFID's policy debates, such as on growth and inequality or in understanding the impacts of the MDGs. Such considerations can also result in more effective poverty eradication. For example, attention is drawn to the fact that certain groups may be missing out systematically from the benefits of development. Planned work on maternal mortality focusing on the right to be free of avoidable maternal death will provide an illustration of the application of a human rights approach at the policy level in the social sectors. The approach has already contributed to framing the policy change in DFID on civil society, with more of a focus on advocacy rather than service delivery and highlighting the importance of broad social movements and dialogue. Though not explicitly, it has informed DFID's innovative policy on safety, security and access to justice.

## Analytical value

Human rights also provide an analytical framework which can help set development objectives. For example, in Latin America, a human rights analysis has led DFID to examine the causes of poverty and to identify social exclusion as a major barrier to poverty eradication. This has influenced the overall country strategies in Bolivia, Brazil and Peru, and has also been the source of partnership with other organisations, such as the Inter-American Development Bank in work on indigenous peoples.

Such an analysis can be based on human rights standards and mechanisms as well as principles. In the Overseas Territories, an analysis using their human rights obligations, in particular under the Convention on the Rights of the Child, has helped in identifying a clear time frame (CRC Committee report due in 2008) for the development of a child protection strategy.

In particular, as demonstrated by research comparing 'sustainable livelihoods' with 'rights-based approaches', a human rights analysis puts issues such as politics, power relations, state accountability, state-society relations, and genuine participation at the centre of analysis and interventions, challenging some of the most difficult barriers to poverty reduction.

Human rights provide a framework for identifying who holds specific obligations, and human rights standards (particularly at the national level) can assist in setting tangible benchmarks to be achieved. For example, constitutional standards may be used to specify minimum standards for service delivery and help identify which policies and institutions need reform, which can be useful at a project level. For example, in Malawi, it is reported that in a DFID-funded project supporting a 'model police station' compliance with the constitutional standard on police detention has increased from 0% to 60%.

The examples in the review demonstrate that this should be seen not as a rigid analytical approach but one that can be adapted to specific country contexts. For example, in Jordan, the Family Protection Project has created a mechanism through which a highly sensitive issue, personal security in the family, can be discussed and violence against women and children recognised as an international, as well as national, problem. As a result, the National Council on Family Affairs has adopted a vision of 'family peace' and is developing a policy on family protection. Religious counsellors now address the issue in Friday sermons.

## Operational value

Some of the practical implications of a human rights-based approach share a great deal with what is currently considered 'good development practice', such as ensuring stakeholder participation in activities, or using domestic systems in the delivery of aid to ensure national ownership. The application of human rights principles in programming may help maintain a focus on 'good practice', but may also introduce innovations that enable aid to be more effective (see the UN list of 'essential' but not 'unique' characteristics of human rights-based approaches in Annex 5). The value of applying human rights principles in this context is that they ensure a consistent focus on these elements, such as by articulating poor people's participation in development processes as an entitlement rather than a mere option.

Discussions using a human rights language are framed in a certain way – based on agreed (international, national or even local) standards in a manner that can challenge the *status quo*. For example, CSOs that DFID supports through civil society or governance funds in many countries can appeal to such standards to lobby for domestic reforms. The discussion also leads to a clear focus on specific groups and sectors/themes to ensure a minimum level of respect for rights.



A human rights-based approach also highlights the importance of working with both *rights-holders* and *duty-bearers*, or, in more common development language, on both the ‘demand’ and ‘supply’ sides, thereby linking both social development and governance considerations around issues such as accountability. One lesson, particularly evident from safety, security and access to justice interventions, is the need not to limit activities to human rights training for state institutions, or human rights education for the public, but rather to work with the whole justice system to help it deliver better access and outcomes for the poor. The Zimbabwe Inheritance and Wills project showed that civic awareness and legal literacy may be unsustainable if it is only a one-off affair, and that institutional capacity building is also required, so that the state can meet its human rights obligations, in response to better informed citizens’ demands.

Focusing on processes and outcomes that enhance respect for human rights thus means that the activities of more than just one agency have to be taken into account. DFID has helped build partnerships across whole sectors, such as the construction industry or the Ethical Trade Initiative to help protect employment and labour standards better. These examples also illustrate that both national and international levels matter for development, as is reflected in the Declaration on the Right to Development and DFID’s efforts at aid coherence across government and donors.

Though the approach is compatible with most forms of aid delivery, it can help improve how the aid is given through the chosen instrument. For example, a review of human rights and governance funds showed that it was important for these responsive mechanisms also to be strategic. In the Bangladesh Manusher Jonno Fund, this has been achieved by using human rights at the levels of project purpose, guiding operational principles and selecting thematic priority areas (e.g. improving the quality of institutions to help meet human rights obligations and promoting the rights of specific vulnerable groups).

The approach also provides some innovative tools for policy dialogue, for example in the use of a Memorandum of Understanding in Rwanda. This has enabled the UK and Rwandan governments to make a number of commitments and has established a monitoring mechanism that creates the opportunity for both parties to be held to account and to discuss concerns at a high level.

Again, context matters a great deal in how to have human rights approaches put into practice. Examples identified in Bangladesh, China and Malawi showed that the political sensitivities surrounding certain human rights projects required a different strategy, often working with other donors and different partners. In the Middle East and North Africa, rather than acting directly, DFID is encouraging the European Union to use the full range of instruments at its disposal.

## 6.3 Recommendations

### Policy framework

It would appear that a clear statement of DFID policy in terms of where human rights fit into the current policy environment of MDGs and PRSPs would be much appreciated by staff. One way in which this could be done would be to use the approach agreed by the UN system (at a meeting funded by DFID, amongst others) to restate that, in line with the White Papers, one of DFID’s main objectives is the realisation of all human rights for all in the development process and in responses to emergencies, alongside the realisation of the MDGs. Such a statement would help clarify the policy framework for staff, and enable all of them to take human rights into account in their work, where relevant. It could be complemented by a ministerial speech which, in the right forum, could share with a broad constituency DFID’s many achievements to date, and set out an agenda for the future, in partnership with others.

There are a range of activities that could support such a process, and a number of suggestions are described below. The aim would be to help develop greater consistency of knowledge and application of human rights across the organisation, based on better learning from DFID’s own experience of integrating human rights to date, and clearly examining and communicating the ‘value-added’ of human rights for poverty reduction.

## Learning from experience

DFID could seek to establish a more systematic approach to learning from the experiences in its programmes, using this review as a starting point but expanding on it. This would cover learning from country programmes in particular, but across different DFID divisions and departments as well. A mechanism for learning from the initiatives of other organisations that have been supported by DFID would be useful, such as from the UN system and other international organisations such as the World Bank and the Inter-American Development Bank, and from civil society, including INGOs' policies and programmes and research findings.

Examples that could be built on to give greater coherence to DFID's work include:

- collaboration with UNICEF and attempting to link DFID central support more effectively to country-level activities (planned work);
- more effective learning between PPA and CSCF at the central-level, and country-level activities, for both DFID and INGOs;
- more effective learning between DFID country programmes (within and across regions);
- linking overseeing of support to OHCHR with other (non-conflict) human rights work; and
- ensuring that the overall UN ISP or equivalent framework includes human rights.

There are a number of areas where additional lessons could be identified by commissioning further reviews or developing learning mechanisms, for example:

- developing work on human rights indicators and ways of measuring progress (a priority);
- work on core labour standards, looking at the linkages between international, regional and national interventions and their impacts;
- work with civil society (including a more detailed consideration of PPAs and the CSCF, looking at the experience in East Africa and comparing this with approaches used elsewhere, or comparing governance/civil society challenge funds with more strategic and donor-co-ordinated approaches to political reforms, as in Kenya);
- consolidating and building on research findings from IDS, ODI and other research organisations and continuing to support innovative or policy-orientated research to facilitate learning ;
- reviewing sectors not covered in detail here, in particular, natural resources (land, forestry, water, the environment) as well the provision of humanitarian assistance; and
- more detailed consideration of country programmes, particularly learning from the experiences in Latin America, Malawi, or China, and possibly linked with the next round of country programme evaluations by the Evaluation Department.

## Consolidating guidance and support

This review and the learning and policy developments recommended above would produce strong foundations and more than enough material to provide practical guidance for staff. This would need to be properly disseminated and supported centrally. It would also need to be complemented by continued capacity building within DFID to support the organisation's work on human rights, in particular for country teams, but also for other teams in the Policy Division and in Regional Departments. Based on interviews, the following have been identified, for example:

- access to capacity to advise on international human rights negotiations, for example in voluntary guidelines on the right to food; and
- the development of capacity to work on the enforcement of economic and social rights in country programmes.

Additional support could come from maintaining links with other bilateral agencies facing similar challenges. This could take the form of commissioning joint work with other members of the informal donor human rights group or under the umbrella of the Governance Network of the Organisation for Economic Co-operation and Development (OECD) Development Assistance Committee on the MDGs and PRSPs, which are a common interest with other donors. Engagement with the IFIs should also continue, given DFID's good relations to date and recent positive developments.

Consideration also needs to be given to how DFID can broaden the understanding of human rights beyond a relatively limited number of advisers. It is important to ensure that social development advisers continue to raise human rights issues and advise on analysis and programming. However, it would be beneficial to extend ownership to other cross-cutting and sectoral advisers as well as programme managers, to avoid a compartmentalised approach, and to ensure that the full range of

human rights standards is used. The multi-disciplinary nature of Policy Division teams will facilitate this process.

It would be good to make human rights training available for all staff who have expressed a demand for it. Training packages could easily be built on the material developed for other agencies, such as UNDP or UNICEF. Training would need to include an introduction to the international human rights system, made relevant and accessible for development practitioners. Efforts could also be made to ensure that other training activities (e.g. economics for non-economists) are consistent with DFID's human rights policy.

An alternative approach would be to link training to the learning mechanisms discussed above, bringing together a range of advisers in a learning network or learning events to collect experience and consolidate guidance. The output of this review and complementary work could be made into a 'live' document, for example a website.

## Policy development

The development of guidance and clarification of the policy framework would seem also to require a number of policy discussions on key issues, some of which are suggested below:

- examining some of the constraints to adopting a human rights-based approach, for example concerns expressed that it is not compatible with sound public expenditure management, or that it may constrain rather than facilitate growth. This could be carried out by initiating a dialogue with economists, and building on the Labour Standard consultation document and research already undertaken, such as work by Norton and Elson on budgets or Anderson *et al.* on poverty, inequality and growth;
- examining why DFID seems to have made less progress in promoting economic, social and cultural rights than might have been expected, as well as the lack of a policy on minorities and indigenous peoples' rights, and identifying learning from planned work on maternal mortality and human rights to further develop approaches in this area;
- identifying how DFID's ongoing governance work contributes to the realisation of human rights, and how this can be carried out in a more explicit manner, based on human rights analysis, as well as examining how human rights have served as 'drivers of change'; and
- examining human rights in relation to aid instruments and political dialogue, in particular, but not only, in difficult partnerships, including the usefulness of Memoranda of Understanding, and past experiences with human rights conditionality, as well as the relevance of human rights for PRSPs.

In addition to building on the UN agreement, it may be helpful to revisit some elements of DFID's current operational framework, for instance highlighting and further explaining the meaning of the principle of 'obligation' so as to make it more operational, for example by:

- highlighting the importance and legitimacy of analysis and activities based on clear international and domestic human rights standards;
- drawing attention to the fact that both empowerment and institutional reforms are needed for the realisation of rights, as is highlighted in the rights-holder/duty-bearer distinction; and
- referring to a longer list of principles agreed by the UN, including accountability and the rule of law, as well as the universality and indivisibility of all rights.

Finally, new policy initiatives and guidance preparation may need to be complemented by an examination of DFID's planning processes. This, in turn, would need to be backed up by clear guidance on the instruments to be used, including how CAP processes can encourage human rights analysis, and monitoring the impact of programmes on human rights. This would require serious work on indicators to measure progress in projects and country programmes.

## Human rights obligations

Further work may be required to reflect on DFID's own human rights obligations. This would include undertaking an assessment of current compliance, and considering how to monitor the impact of all DFID activities on these obligations. Illustrative examples of issues to look at are: how DFID relates to the UN when it acts as a government in Kosovo and elsewhere; and how DFID's obligations affect its relations with partner governments to which it provides budget support. Such an assessment could

potentially enhance DFID's accountability, not just to the Treasury, but also to the populations it assists, in partnership with governments in developing countries.

Work could also be undertaken to examine the role DFID plays in promoting a coherent aid agenda which puts all human rights for all at the centre of the impact that the UK government, as a whole, has on developing countries. Reviews could include:

- the relationship between DFID country offices and High Commissions/Embassies, which have priorities or human rights post objectives that may differ from those of DFID. Such a review would best be carried out within the framework of a more general assessment of donor co-ordination on political conditionality, aimed at drawing out good practice, given the critical role played by the FCO in such situations; and
- looking more broadly at the coherence of UK policy and its impact on human rights issues, including refugees, migrants, trade and military interests, including with the Department of Trade and Industry, the Home Office and the Ministry of Defence.

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# Annex I: Terms of Reference

## Background

The importance of integrating a rights perspective into development policy and practise is set out in DFID's Target Strategy Paper, 'Realising Human Rights for Poor People' (2000), which emphasises the value of a rights approach for achieving poverty reduction and the International Developments Targets (IDTs). The TSP sets out a strategy for incorporating rights into DFID's work, based on three cross-cutting principles: participation, inclusion and fulfilling obligation. Since then, work has been carried out at the country level to operationalise a rights-based approach to development across a range of different sectors and aid instruments. Work on human rights has also been supported through specific partnerships with organisations including UN agencies and NGOs. However, to date there has been little study of the *content* and *impact* or potential impact of this work.

Furthermore, there is a demand within DFID for better understanding of the significance of integrating a rights perspective for achieving DFID's wider goals, including poverty reduction and the MDGs. Questions are frequently asked about the ways in which adopting a human rights perspective is making a difference to development – including how it is affecting policy choices, resource allocations and development processes. It is important to begin to build evidence on the basis of country-level activities, and examine what impact they are having.

Simultaneously, there is a growing interest among other development agencies in learning from the practical experiences of others in operationalising a rights-based approach to their work. The Governance Network (Govnet) of the OECD's Development Assistance Committee (DAC) has established an informal team on human rights that will carry out a stock-taking of experiences of its members on rights-based approaches in April 2004. DFID has been requested to contribute to this activity by presenting a synthesis review of its work on implementing a rights-based approach.

Within DFID's Policy Division, Reaching the Very Poorest (RtVP) Team has been given the responsibility to draw together the experiences of DFID and other development agencies in operationalising a rights-based approach. Given the broad scope of this work, the RtVP team is working in close collaboration with other parts of DFID, including the Chief Advisers' Office, Senior Gender and Human Rights Adviser, Social Development and Governance Advisers and Country Offices.

## Objective

The purpose of this consultancy is to conduct a review of practical experiences in implementing a rights-based approach to development, drawn from a portfolio of work supported by DFID. The focus will be on lessons to be learned from actual experiences on the ground, covering a range of sectors and initiatives.

## Scope of Work

The review will look at initiatives supported by DFID (using a range of aid instruments). This will include work in partnership with other development agencies (Note – DFID's partnerships with the UN will be covered through a separate study).

The review should address the following three areas:

- Document country examples of rights work, focusing on practical experiences (both positive and negative) of integrating rights into DFID's activities at country level, including ways in which progress is being measured;
- Examine the 'value-added' of incorporating rights for the achievement of poverty reduction and the MDGs, with specific country examples;
- Synthesise key lessons learned and recommendations for taking forward rights work within DFID, including methods for measuring progress.

Relevant questions to consider as part of the review may include the following:

- a) How has DFID implemented the operational principles of participation, inclusion and fulfilling obligation in practise? For example – how is the approach contributing to poverty reduction through linking poor people’s perspectives with policy processes; addressing discrimination in legislation, policy and practices; and making governments accountable for their human rights obligation?
- b) What added value does a rights perspective offer at the various stages of development activity? (E.g. dialogue with governments; formulating decisions on aid instruments; informing policy choices; setting objectives and allocating responsibilities).
- c) What are the critical success factors for implementing a rights approach?
- d) (E.g. intrinsic/instrumental approaches; enabling legal/policy framework; entry points; political (dis)incentives).
- e) What are the key challenges for improving DFID’s implementation of a rights-based approach? (E.g. *internal* – mainstreaming and guidance; linkages with other policies; and *external* – tackling resource implications for partner governments of fulfilling their obligations).

## Methodology

1. The consultants will review relevant documents and conduct e-mail/telephone/personal interviews with DFID staff as required. It is expected that the consultants will formulate an appropriate framework to present to country offices in order to document their experiences. The consultants will also gather relevant information from RPUs, the Chief Advisers Office, CHAD, and relevant Policy Division teams. The process for collecting the required information will be agreed with the RtVP team.
2. Country examples will be identified in conjunction with the RtVP Team and the Regional Policy Units (RPUs), representing a range of geographical locations and sectors in which DFID is working.

## Reporting/Time-frame

3. The consultants will report to the RtVP team (Geeta Unnikrishnan; Jane Alexander).
4. The contract provides for up to 30 working days for completion of the report. An additional 3 working days are provided for preparation and delivery of presentations to DFID and to the DAC-Govnet meeting.
5. The consultants will submit a draft report to the RtVP Team by 8<sup>th</sup> February 2004. This draft should incorporate feedback from country offices on the content of the report. Feedback on the draft will be provided by the RtVP team/DFID by 18<sup>th</sup> February. The final report will be submitted by 28<sup>th</sup> February 2004.
6. The report should not exceed 50 pages (excluding annexes).
7. The consultants will provide the framework for documenting experiences at the start of the contract and seek agreement with the RtVP team. The consultants will also provide an early draft of 3-4 examples to illustrate their methodology within the first 7 days of the contract.
8. The consultants will be available to present their review findings to DFID in mid-March 2004, and to the DAC-Govnet meeting on 24–25 March 2004.

## Skills required

9. A team of two consultants will carry out the work. Given the cross cutting nature of the rights based approach, the two consultants will be required to combine social development and governance perspectives. The team of consultants should also have: i) a good understanding of the international human rights framework and DFID’s strategy for realising human rights for poor people; ii) broad understanding of DFID supported programmes; iii) good editing and writing skills (with a more practical focus than academic).



## Annex 2: Methodology

The approach adopted by the review team was as follows. First, a methodology note was prepared and amended following comments from DFID and a peer reviewer. Second, a wide range of information was collected, starting with that provided by the Reaching the Very Poorest Team, based on contributions from Social Development Advisers working on country programmes. This was complemented by further searches on DFID's information system, PRISM; a systematic review of DFID's planning instruments (in particular Regional Directors' Delivery Plans and Country Assistance Plans); and interviews at headquarters with policy teams and regional programmes. Third, a list of possible examples deserving further examination was drawn up, prompting further research, and where possible, interviews.

Three aspects of the methodology need to be noted as they help explain the scope of the review – what it aimed and did not aim to do.

First, it has not been possible to identify all relevant DFID interventions comprehensively, though a significant body of material was collected and reviewed, and a large number of staff interviewed. The lack of comprehensiveness was due to the time-frame, as well as difficulties in gathering information (e.g. shortcomings of PRISM; inconsistent 'labelling' of interventions; absence of institutional memory; and availability of DFID staff for interviews). It has also not been possible to obtain information on all interventions that were deemed interesting after initial research efforts. For reasons of space, certain examples had to be cut.

The result is that the study should be seen as selective, attempting to give an overall picture of trends in DFID as well as providing some more in-depth examples. The focus has been on identifying positive lessons, rather than analysing in details whether/why human rights were/were not being integrated in certain areas. There is certainly more to be learned from other DFID activities and programmes which are not covered here.

Second, the sources of information have been limited to DFID informants, documentation and DFID-funded monitoring and evaluation. Interpretations available to the reviewers therefore tend to be more positive and upbeat than if a wider body of information, including more independent sources, had been used, though DFID staff and managers were very open in their discussions. The findings are nonetheless valuable, showing how DFID internally perceives how it is integrating human rights, and this is an important issue in its own right.

The more serious shortcoming is the absence of views of DFID's programme partners, in international organisations and in the field (including governments, local NGOs, programme beneficiaries, or other donors). To assess properly the relevance and impact of DFID's work, it would be essential to identify how interventions are perceived locally, how they respond to local priorities, and are being opposed or supported. It was not feasible, however, for this global study to be participative, and a decision was made not to undertake country visits.

Third, this is not an evaluation, and there was no systematic effort at reviewing efficiency, effectiveness, impact, the volume of aid spent on human rights-related activities, or their significance overall by comparison with other approaches or activities.

## Annex 3: List of People Interviewed

Date and Name	Position	Interviewer
<b>2nd December</b> Phil Evans	Social Development Adviser, UK Mission to UN, New York	LHP (London)
<b>5th December</b> Sue Fleming	Social Development Adviser, DFID Brazil	LHP (London)
<b>8th December</b> Michael Anderson Camilla Sugden	Poverty Reduction in Difficult Environments Team Leader Global Conflict Pool, Programme Manager Conflict and Humanitarian Affairs Dpt (CHAD)	FW (London) FW (London)
Arthur van Diesen	Social Development Adviser, DFID Uganda	LHP (Uganda)
<b>9th December</b> Adaeze Igboemeka Clare Ferguson Geeta Unnikrishnan	Education Adviser, Africa Greater Horn Dpt Social Development Adviser, HIV AIDS Team Social Development Adviser Reaching the Very Poorest Team	FW (London) FW (London) FW (London)
<b>10th December</b> Maria Cushion Tim Harris	Programme Manager (Core Labour Standards) Statistics Adviser, Reaching the Very Poorest Team	FW (London) FW (London)
<b>12th December</b> Jenny Yates Tom Wingfield	Social Development Adviser, DFID Uganda Governance Adviser, DFID Uganda	LHP (Uganda) LHP (Uganda)
<b>16th December</b> Jane Alexander	Governance/Access to Justice Adviser Reaching the Very Poorest Team	LHP (London)
Jim Harvey Mike Battcock	Head of Profession, Natural Resources Civil Society Department	LHP (London) FW (EK)
<b>17th December</b> Keith Mackiggan	Governance Adviser, Reaching the Very Poorest/Service Delivery Teams Governance	LHP (London) LHP (London)
Stefan Kossoff Sharon Harvey Jo Yvon	Adviser, Middle East and North Africa Dpt Food Security Adviser, Reaching the Very Poorest Team UK Representative to Food and Agriculture Organisation, Rome	LHP (London) LHP (London)
Pat Holden	Senior Gender and Rights Adviser	LHP (London)
<b>18th December</b> Bridget Dillon John Burton Ben Latto Sue Unsworth Garth Glentworth	Social Development Adviser, DFID Southern Africa Deputy Chief Economist Governance Adviser, Europe and Central Asia Department Dpt Chief Governance Adviser Governance Adviser, Sierra Leone	LHP (phone) LHP (London) LHP (London) LHP (London) LHP (London)
<b>19th December</b> Andy Norton	Chief Social Development Adviser	LHP (London)
<b>22nd December</b> Ros Ebdon Ellen Wratten Teresa Durand Geoff Bredemear Richard Thomas Pat Hynes	Social Development Adviser, MDGs Maternal Mortality Team Aid Effectiveness Team Leader Social Development Adviser, Aid Effectiveness Team Criminal Justice and Police Adviser Governance Adviser, DFID Southern Africa Civil Society Department	LHP (London) LHP (London) LHP (London) LHP (London) LHP (London) FW (EK)
<b>29th December</b> Chris Gale	DFID Police Consultant	LHP (phone)
<b>7th January 2004</b> Sina Odugbemi	Information and Communication Department	FW (phone)

Name	Position	Interviewer
<b>8th January</b> Sue Phillips	Social Development Direct	FW (phone)
<b>13th January</b> Gail Marzetti	Performance and Effectiveness Department	FW (EK)
<b>21st January</b> Robin Milton	Social Development Adviser Europe and Central Asia Department	FW (phone)
<b>29th January</b> Chris Cosgrove Joanne Bosworth	Social Development Advisor, DFID Malawi Social Development and Research Adviser, MaSSAJ	LHP (phone) LHP (phone)
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# Annex 5: UN Agencies Common Understanding

## Report on the Second Interagency Workshop on Implementing a Human Rights-Based Approach in the Context of UN Reform (Stamford, CT, USA, 5-7 May, 2003)

### Attachment 1: The Human Rights Based Approach to Development Cooperation: Towards a Common Understanding Among the UN Agencies

#### Introduction

The United Nations is founded on the principles of peace, justice, freedom and human rights. The Universal Declaration of Human Rights recognizes human rights as the foundation of freedom, justice and peace. The unanimously adopted Vienna Declaration and Programme of Action states that democracy, development, and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing.

In the UN Programme for Reform that was launched in 1997, the Secretary-General called on all entities of the UN system to mainstream human rights into their various activities and programmes within the framework of their respective mandates.

Since then a number of UN agencies have adopted a human rights-based approach to their development cooperation and have gained experiences in its operationalisation. But each agency has tended to have its own interpretation of approach and how it should be operationalised. However, UN interagency collaboration at global and regional levels, and especially at the country level in relation to the CCA and UNDAF processes, requires a common understanding of this approach and its implications for development programming. What follows is an attempt to arrive at such an understanding on the basis of those aspects of the human rights-based approach that are common to the policy and practice of the UN bodies that participated in the Interagency Workshop on a Human Rights based Approach in the context of UN reform 3-5 May, 2003.

This Statement of Common Understanding specifically refers to a human rights based approach to the development cooperation and development programming by UN agencies.

#### *Common Understanding*

1. All programmes of development co-operation, 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 of 'rights-holders' to claim their rights.

1. All programmes of development co-operation, 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.

A set of programme activities that only incidentally contributes to the realization of human rights does not necessarily constitute a human rights-based approach to programming. In a human

rights-based approach to programming and development cooperation, the aim of all activities is to contribute directly to the realization of one or several human rights.

## 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.

Human Rights principles guide programming in all sectors, such as: health, education, governance, nutrition, water and sanitation, HIV/AIDS, employment and labour relations and social and economic security. This includes all development cooperation directed towards the achievement of the Millennium Development Goals and the Millennium Declaration. Consequently, human rights standards and principles guide both the Common Country Assessment and the UN Development Assistance Framework.

Human rights principles guide all programming in all phases of the programming process, including assessment and analysis, programme planning and design (including setting of goals, objectives and strategies); implementation, monitoring and evaluation.

Among these human rights principles are: universality and inalienability; indivisibility; interdependence and inter-relatedness; non-discrimination and equality; participation and inclusion; accountability and the rule of law. These principles are explained below.

- *Universality and inalienability:* Human rights are universal and inalienable. All people everywhere in the world are entitled to them. The human person in whom they inhere cannot voluntarily give them up. Nor can others take them away from him or her. As stated in Article 1 of the UDHR, 'All human beings are born free and equal in dignity and rights'.
- *Indivisibility:* Human rights are indivisible. Whether of a civil, cultural, economic, political or social nature, they are all inherent to the dignity of every human person. Consequently, they all have equal status as rights, and cannot be ranked, a priori, in a hierarchical order.
- *Inter-dependence and Inter-relatedness.* The realization of one right often depends, wholly or in part, upon the realization of others. For instance, realization of the right to health may depend, in certain circumstances, on realization of the right to education or of the right to information.
- *Equality and Non-discrimination:* All individuals are equal as human beings and by virtue of the inherent dignity of each human person. All human beings are entitled to their human rights without discrimination of any kind, such as race, colour, sex, ethnicity, age, language, religion, political or other opinion, national or social origin, disability, property, birth or other status as explained by the human rights treaty bodies.
- *Participation and Inclusion:* Every person and all peoples are entitled to active, free and meaningful participation in, contribution to, and enjoyment of civil, economic, social, cultural and political development in which human rights and fundamental freedoms can be realized.
- *Accountability and Rule of Law:* States and other duty-bearers are answerable for the observance of human rights. In this regard, they have to comply with the legal norms and standards enshrined in human rights instruments. Where they fail to do so, aggrieved rights-holders are entitled to institute proceedings for appropriate redress before a competent court or other adjudicator in accordance with the rules and procedures provided by law.

## 3. Programmes of development cooperation contribute to the development of the capacities of duty-bearers to meet their obligations and of 'rights-holders' to claim their rights.

In a HRBA human rights determine the relationship between individuals and groups with valid claims (rights-holders) and State and non-state actors with correlative obligations (duty-bearers). It identifies *rights-holders* (and their entitlements) and corresponding *duty-bearers* (and their obligations) and works towards strengthening the capacities of rights-holders to make their claims, and of duty-bearers to meet their obligations.

## Implications of a Human Rights Based Approach to Development Programming of UN Agencies

Experience has shown that the use of a human rights-based approach requires the use of good programming practices. However, the application of 'good programming practices' does not by itself constitute a human rights-based approach, and requires additional elements.

The following elements are necessary, specific, and unique to a human rights-based approach:

- a) Assessment and analysis in order to identify the human rights claims of rights-holders and the corresponding human rights obligations of duty-bearers as well as the immediate, underlying, and structural causes of the non-realization of rights.
- b) Programmes assess the capacity of rights-holders to claim their rights, and of duty-bearers to fulfil their obligations. They then develop strategies to build these capacities.
- c) Programmes monitor and evaluate both outcomes and processes guided by human rights standards and principles.
- d) Programming is informed by the recommendations of international human rights bodies and mechanisms.

Other elements of good programming practices that are also essential under a HRBA, include:

1. People are recognized as key actors in their own development, rather than passive recipients of commodities and services.
2. Participation is both a means and a goal.
3. Strategies are empowering, not disempowering.
4. Both outcomes and processes are monitored and evaluated.
5. Analysis includes all stakeholders.
6. Programmes focus on marginalized, disadvantaged, and excluded groups.
7. The development process is locally owned.
8. Programmes aim to reduce disparity.
9. Both top-down and bottom-up approaches are used in synergy.
10. Situation analysis is used to identify immediate, underlying, and basic causes of development problems.
11. Measurable goals and targets are important in programming.
12. Strategic partnerships are developed and sustained.
13. Programmes support accountability to all stakeholders.

# Annex 6: DFID Human Rights Principles

The three tables below summarise areas of interventions referred to in the DFID Human Rights TSP and sectoral guidance, grouped under the three operational principles. Activities in square brackets are not explicitly mentioned in DFID guidance but seem consistent with the category of interventions being recommended therein. The list does not refer to other actions that DFID might take, such as policy dialogue, which are mentioned in the TSP.

<b>Participation</b>	<b>Examples of areas of possible intervention</b>
Promotion of the engagement of people living in poverty in policy making processes – local, national, regional or international; informal or formal democratic processes	CSO participation in SWAps or in development and monitoring of action plans and targets at local and national levels
	CSO involvement in national process of preparation and participation in international meetings
	[CSO participation in PRSP processes]
	Reservation of seats for women or persons with disabilities on local councils
	Decentralisation that successfully increases participation of marginalised people
	[Political empowerment programmes: civic education, political awareness raising, etc]
	[Participation in broad-based constitutional processes]
	Effectively functioning parliamentary and political institutions [to enhance responsiveness to the poor and representation]
Promotion of access to information for poor people	Support to realise the right to vote: free and fair electoral systems, elections commissions, CSO election monitoring
	Freedom of information legislation. National regulatory framework to provide information on government decisions and actions at national and local levels
	Independent and responsible press and media. Enable journalists to report on government in fair and responsible manner
	Increased access to new information and communication technologies and continue value radio to reach poorest
	Local level actions to increase information about local budgets and policies
	[Support the promotion and respect of] freedom of opinion and expression
Freedom of association [and assembly] and capacity of civil society to represent and advocate for the rights of poor people	Access to information to combat corruption through citizens monitoring of government action
	Civil society networks to promote the rights of people living in poverty
	CSO role in [conflict?] early warning and inter-community dialogue
	[Promote and respect] the right to form and join trade unions
	Organisation of workers in non-formal sector
	Civil society capacity building initiatives to support the formation and management of organisations
Increase the public speaking and influencing skills of disadvantaged people	

<b>Inclusion</b>	<b>Areas of intervention</b>
Social policies that promote non-discrimination and equality of access to services and resources – at the local, national, international levels	Social policies promoting access of ethnic minorities to education and education curricula that break down stereotypes
	Reform of institutions and practices in order to enable health services and workers to provide non-discriminatory treatment to people with HIV or disabilities
	Recognition of traditional/indigenous village structures for participation in policy making
	[Promote the use of] human rights principles and justice systems in economic reform programmes to ensure equality of access for excluded groups to services and resources
	[Affirmative action policies]
	[Support to claiming and realising equal] reproductive rights
	Diversity monitoring of use of public services, including justice, public sector employment and political representation
Establish, implement and monitor anti-discrimination legislation and reforms to existing discriminatory legislation	Use international standards and instruments to monitor and advocate for change domestically, for example CEDAW [or CERD]
	Legislation promoting women's equal rights to land, credit, inheritance
	[Combating denial of equal] citizenship rights
	[Legal and administrative mechanisms to ensure implementation and to obtain remedies for victims]
	[Legal empowerment activities – including public interest litigation – specifically on anti-discrimination]
Addressing social values, norms and institutions that reinforce inequalities	Research to understand processes of discrimination which exclude groups (minorities indigenous peoples, people with HIV or disability, the elderly)
	[Work to abolish] caste and bonded labour
	[Anti-slavery activities]
	Training journalists to address racial and gender stereotypes
	Language policies supportive of minorities cultural rights and mother tongue adult literacy in adult education training
Address issues of violence against women and children [and other excluded groups, such as minorities]	Conflict resolution activities, reduction of inter-and intra community violence, identification of cause of conflict
	Actions to prevent genocide [and ethnic or race-based violence]
	Educate people working in police services and justice systems in issues of domestic [and sexual] violence and raise their awareness and responsiveness
	[Address trafficking of women and children]
Production and use of disaggregated data	Disaggregation of demographic and household survey data, including utilisation of services on basis of gender, ethnicity, religion, disability, and geographical location
	[Support to national statistics or poverty monitoring institutions to generate and use such data]

<b>Obligation</b>	<b>Areas of intervention</b>
International standards	Encourage the ratification of human rights treaties and core labour standards
	Incorporation of standards into Constitutions and Bills of Rights
	Incorporation of human rights norms into domestic legislation e.g. assessing legislation against international standards, train judiciary [and lawyers] to promote awareness of new legislation and procedures
Support to UN and ILO to monitor the rights of poor people [and to regional mechanisms]	CSO engagement in treaty monitoring processes
	[Assist governments with reporting to UN mechanisms]
	[Assisting NGOs with preparing human rights shadow reports to the UN and participating in UN meetings]
	[Support to (and in accessing) regional mechanisms, e.g. in Africa, America, Europe]
Translation of international obligations into agreements on concrete entitlements	National budgets and poverty plans based on human rights obligations
	Locally negotiated service standard benchmarks e.g. charters setting out clear information on service standards and entitlements, monitored through participatory mechanisms
	Women's and children's budget
	Transparent policy-making and budgeting processes to allow for scrutiny of expenditure
	Assistance to defending legal rights to employment in court, or using their moral force and as a source of focus for political mobilisation
National and regional human rights institutions to address the rights of poor people	Equal Opportunities Commission or Commissions for Racial Equality in the development of social policies
	Support National Human Rights Commissions for advocacy and monitoring on all rights e.g. secure sustainable access to sufficient resources, and maintain independent and public role, and have capacity to address rights and perspectives of the poor
Inform people about their legal rights and entitlements	Citizen information offices
	Participatory standard setting, monitoring and evaluation can provide a means of informing about concrete entitlements and enhance accountability
	Support strong civil society organisations engaged in legal advocacy, and which can represent the poor in public interest and class action litigation [Could also go under SSAJ]
	[Civic education campaigns]
	[Support discussion and endorsement of UN norms on transnational corporations]
Building government capabilities to provide accessible justice and legal redress based on respect for human rights	Police force with capacity to respect and protect human rights and act as a service to the community
	[SSAJ interventions that promote accessibility, equity and fairness, as well as accountability of institutions]
	[Legal aid, legal literacy, public interest litigation]
	Actions to assist non-state systems of justice comply with human rights norms
	[Administrative remedies to address human rights violations]

<b>Obligation</b>	<b>Areas of intervention</b>
Protection of rights during violent conflict and prosecution of rights violators after conflict or political transitions	Respect for international humanitarian law and refugee law with ICRC and UNHCR
	Effective start to the International Criminal Court to ensure that those guilty of war crimes and crimes against humanity are brought to justice [support to International Criminal Tribunals for Rwanda/Former Yugoslavia]
	[Support to UN human rights monitors in peace operations]
	[Support to post war transitional justice mechanisms such as Sierra Leone or Rwanda]
	[Support to dealing with human rights issues during political transitions]
Promotion of private sector responsibility for labour rights of employers and communities	Voluntary codes of conduct development and implementation
	Transnational corporations held accountable for respecting human rights
	States' incorporation of international standards in domestic legislation on working conditions
	Multilateral organisations to recognise the importance of freedom of association to secure livelihoods and decent working conditions
	[Support discussion and development of UN norms on transnational corporations]

## Annex 7: Human Rights Considerations in Governance TSP

<b>Capability</b>	<b>Key human rights considerations</b>	<b>TSP quotes</b>
Pro-poor political systems	Rights of political participation (equal and universal suffrage, genuine elections)  Freedom of speech and association  Non-discrimination (women's political participation)	'Human rights conventions affirm that all people are entitled to participate in government, either directly or through freely chosen representatives. This right is supported by the fundamental freedoms of speech and association, and equal and universal suffrage in periodic and genuine elections'.
Economic management	Mutual reinforcement of civil and political rights with economic development	'Democracy, in turn, aids the development of a liberal economy and makes it more difficult for governments to suppress human rights and individual freedoms'.
Public expenditure management	Public resources must be raised, allocated and accounted for in a transparent and accountable manner	The analysis does not use an explicit human rights language, but highlights accountability to the public. 'Governments must increase financial transparency and accountability, among other things, to enable legislatures and civil society to improve scrutiny of budget estimates and implementation'.
Service delivery	Non-discrimination in service delivery  Accessibility, (cultural) acceptability, availability and quality of services with progressive realisation  Access to information  Responsibility of government for ensuring service provision	There can be private or voluntary service delivery, 'but only the government can be held accountable by the whole population for the supply of services. A pro-poor government must be responsible for ensuring that essential services are of good quality, affordable and accessible'. 'Making access to information a legal right' can be used by the public to hold the government to account.  'When governments can afford it, poor people should have free access to basic education and healthcare. Equality demands it'.
Safety, security and access to justice	Rights to life, liberty, security and property  Non-discrimination and equality before the law  Due process rights  Access to legal remedies  Domestic law to be consistent with international standards  Prisoners' rights	'People should enjoy their rights to life, liberty, and security and the right to own property'. Courts 'should dispense justice fairly speedily and without discrimination'. 'Laws should be consistent, easily understood and reflect core human rights instruments. Government should reform laws which discriminate against poor people or vulnerable groups, and should ensure that laws that are supposed to protect those groups are enforced'. 'Strengthening traditional systems which conform to human rights norms' should be considered. Penal reform is needed to 'reduce overcrowding in prisons' and 'protect human rights, for example by segregating juveniles and women to prevent abuse'.



<b>Capability</b>	<b>Key human rights considerations</b>	<b>TSP quotes</b>
Conflict and national security	<p>Rights to life and security</p> <p>Inclusion and non-discrimination</p> <p>Criminal responsibility for war crimes, gross human rights violations, and genocide</p>	<p>‘Conflict is less likely when government is more inclusive and legitimate, and access to economic, social and political power is more equal’.</p> <p>‘Restoration of security is a necessary precursor to all other actions’ (following a conflict).</p> <p>‘Reconciliation will involve bringing to justice speedily and fairly those responsible for violence, killing and genocide’.</p>
Anti-corruption	<p>Accountability (transparency and honesty of government)</p> <p>Right to development (responsibility of developed countries to address corruption)</p>	<p>‘Corruption thrives when public accountability is weak’ and ‘where there is impunity for the corrupt because political leaders, the police and judiciary are themselves corrupt’. ‘Developed countries are starting to take steps to reduce their contribution to corruption’.</p>
Other: International Community	<p>Right to Development (international aid provided in ways that are respectful of human rights and promote development partnerships)</p>	<p>Notes the importance of human rights to the agendas of the European Community and the Commonwealth.</p> <p>‘International NGOs, especially in the human rights field, contribute to understanding and promote change’.</p> <p>‘Development agencies should also take a longer-term perspective of development partnerships’. They ‘should be subject to the same rule of governance as other actors’ and should ‘make themselves accountable’ (e.g. through sharing information, be questioned by parliament and civil society).</p>

## Annex 8: Human Rights-Based Approaches

The language and concepts surrounding human rights-based approaches are not always clear. In this annex, we review some of the main conceptual distinctions, which are indicative of different policy and programming approaches to human rights in development.

The terms of reference for this study referred to both the ‘integration of human rights’ in DFID, and DFID’s ‘rights-based approach’. The following distinction can be drawn:

- A **rights-based approach** refers to a systematic approach through which human rights help set the objectives and modalities of development, taking into account states’ obligations. The implication is that development agencies may need to go through institutional changes to fully adopt this new approach. For example, INGOs describe it as having helped them move from a ‘service delivery’ to an ‘advocacy’ model.
- The **integration of human rights** (or ‘adopting a human rights perspective’ or ‘taking human rights into account’), by contrast, does not require such an institutional transformation. Human rights may offer valuable insights, but need not systematically be taken into account in all aspects of policy, programming, implementation and monitoring of aid.

Development agencies and some DFID statements refer to a ‘human rights-based approach’ rather than just a rights-based approach. The difference is not always explained, but could be:

- A **human rights-based approach** is more explicitly grounded in international law, in particular legally binding instruments rather than just the UDHR. It recognises that the realisation of all human rights for all is a responsibility of aid agencies (See Annex 5).
- A **rights-based approach** may, in most cases, only be a short-hand for a human rights-based approach. However, it may also be used to indicate a certain distance from the body of international and national legal standards and mechanisms, and a preference for a mostly social, community-based or advocacy-based approach.

‘Human rights’ and ‘rights’ are often used interchangeably, but have different meanings. **Human rights** are, for some, only moral rights with no enforcement value, or only drawn from the UDHR. In this review, we refer to all internationally recognised rights. **Rights**, as above, may only be used as a short-hand for human rights. However, they can also be ‘legal’ or ‘customary’ rather than universal, and may conflict with international standards, for example if they are discriminatory. In particular, ‘citizenship rights’ exclude non-citizens, such as migrants.

A distinction not used in this review but established at the 2003 UN inter-agency meeting helps to identify what may be particular to human rights (‘unique’), and thus can best explain their ‘added-value’, and what may be more like what many consider ‘good development practice’.

- **‘Unique’ considerations**: for example analysis in order to identify the human rights claims of rights-holders and the corresponding human rights obligations of duty-bearers as well as the immediate, underlying, and structural causes of poverty, and programming so as to build the capacity of both duty-bearers and rights-bearers.
- **‘Essential’ considerations**: including recognising people as key actors in their own development, rather than passive recipients of commodities and services; seeing participation as both a means and a goal; focusing on marginalised, disadvantaged, and excluded groups; and using both top-down *and* bottom-up approaches in synergy.

Finally, the **right to development** is often confused with ‘human rights-based approaches’. It is not, however, an approach to aid programming, but a relatively new and still controversial concept, formalised in the 1986 Declaration on the Right to Development. It considers that development itself is a human right. This has a number of useful implications; namely a focus on donor accountability and reciprocal obligations with developing countries; a need for a conducive international environment (e.g. trade, debt as well as aid); and a clear statement of the right to participate in development processes.

# Annex 9: Strategic and Integrative Approaches to Country Programmes

This annex is a longer version of Section 4, providing more details on the country programmes.

## I. Strategic Approaches

Here, the human rights situation is used as a starting point, on the basis of either significant field experience and/or detailed background analysis, and provides the basis of the country strategy.

### I.1 Latin America – Brazil, Peru and Bolivia

In **Latin America** the evolution of DFID's country programmes has been based on experience of directly-funded initiatives as well as projects funded by the Joint Funding Scheme/Civil Society Challenge Fund (see sub-section 3.3), as well as the development of DFID's central human rights policy. These programmes have developed either from a focus on mainly environmental issues, as in Brazil, or from diverse, small-scale programmes, as in the cases of Peru and Bolivia, and have been marked by a shift to a greater poverty focus in the first round of Country Strategy Papers (CSPs) in the wake of the 1997 White Paper, and then to a human rights focus drawing on the 2000 White Paper and the Human Rights TSP.

In each of these three country programmes, DFID has developed considerable expertise in dealing with issues of inequality through relatively small-scale work in the field, with well-established links to key players:

- in **Brazil**, it had links with social movements before the elections in 2001, which tied in with the analytical work begun on inequality in the elaboration of the new CAP;
- in **Peru**, in 2001 it carried out, jointly with the World Bank, a Participatory Poverty Assessment, the Voices of the Peruvian Poor, which, with subsequent analysis, highlighted the contribution of deep social divisions to continued inequalities; and
- in Bolivia, it built up experience by supporting civil society's contribution to the National Dialogue (the consultation process for the development of the PRSP). In addition it has contributed (with other donors) to supporting the Public Defender, a mediatory space between government and civil society.

This long-term commitment to tackling inequality has been backed up by extensive consultations and detailed analysis in preparing the new CAPs, all of which raised the key issue of *inequality*, while processes of social exclusion have been the main focus in much of the analysis:

- the initial consultations carried out by DFID **Brazil** revealed clear linkages between reducing inequality and poverty reduction. Further analysis into the causes of inequality highlighted gender, race, ethnicity, location, age and disability, the first four of which were used to guide the development of the programme;
- the joint DFID **Peru** and World Bank assessment highlighted the need for a more responsive and accountable government. Working together with local partners who shared a commitment to rights-based approaches, DFID analysed the ongoing democratic and pro-poor forces and used them to develop proposals in their support;
- in Bolivia, DFID supported the consultation process for elaborating the PRSP in which the issues of poverty, inequality and social exclusion were highlighted. The involvement with civil society and the calls for democratic and governance reform are joint priorities in DFID's support to the implementation of the PRSP.

The analysis carried out has been used to identify overall strategic orientations for the three programmes, each of which, in a different way, adopts the language of DFID's human rights operational principles in setting out the strategic direction of the programme:

- the **Brazil** CAP has three outcomes – *participation* in economic activities, reduced institutional *discrimination*, and more *responsive public service* allocation and delivery;
- the draft CAP for **Peru** also has as one of its outcomes the principle of *social* inclusion, and (with Bolivia) strengthening society-state relations as the basis of the country strategy;
- the goal of DFID's future strategy in **Bolivia** is that *state and society should work together* to achieve sustainable poverty reduction, the purpose being to support the implementation of the PRSP, with the specific aim of bringing a strong rights-based focus to development and promoting the *inclusion of the excluded* throughout the programme.

Despite the differences in the individual programmes there is a discernible Latin American approach:

- building on existing partnerships and credibility gained through the experience of previous work;
- beginning to tackle difficult issues of inequality and social exclusion;
- aiming to strengthen society-state relations as the basis of a country strategy; and
- using a human rights analysis to guide strategic choices in the development of the country programmes.

With the recent closure of some DFID country programmes and the downsizing of others in the region, there are plans to carry forward the experience gained through the development of a regional strategy focusing on social exclusion and working with key multilaterals such as the Inter-American Development Bank.

## 1.2 Overseas Territories

Concerns about the human rights situation in the Overseas Territories had been raised for some time by both DFID and the FCO, and there was initial agreement on the importance of the issue. In particular, there had been concerns about domestic violence and child abuse, which raised further concerns that CEDAW had not been fully extended to the territories and that there was a lack of clarity in reporting on the Convention on the Rights of the Child. The 1999 White Paper *Partnership and Prosperity for the Overseas Territories* clarified the relationship between the UK and the territories, with the UK government responsibility for security and ensuring good governance in the territories highlighting the fact that responsibility for extending international conventions to the territories lay with the UK government, thus giving DFID, working with the FCO, a clear initial role.

Social development consultants and advisers were commissioned to make a series of visits to all of the territories in 2001-02, the aim being to initiate a dialogue in each of the territories on:

- what the local people regard as their own human rights concerns;
- practical difficulties facing the governments of the territories in meeting the requirements of various human rights treaties, including reporting obligations;
- the role that civil society groups can play in the promotion and observance of human rights standards; and
- how the UK government can help support the process through improved consultation and communication, training and logistical support.

The final synthesis report highlighted a number of human rights issues of immediate concern, specifically: discrimination against migrants and the unfair treatment of illegal migrants; human rights abuses amongst children; and the need for concerted action on HIV/AIDS. Suggestions for taking forward the realisation of human rights were:

- the funding of a cross-territory conference with the specific aim of facilitating a cross-territory agreement on a human rights strategy;
- the appointment of human rights officers for the Caribbean territories;
- funding support for legal drafting in Attorney Generals' offices; and
- training and technical assistance for Human Rights Committees.

### 1.3 Bangladesh

As set out in the Bangladesh CAP, gender inequality is an issue of major importance in South Asia as a whole and in Bangladesh in particular. The analysis in the CAP highlights the fact that: 'Gender inequality in Bangladesh constrains progress towards achieving the Millennium Development Goals', a similar analysis to the link made between reducing inequality and reducing poverty in Latin America. It is further stated that 'DFID has concluded that in the light of the broadly experienced failure of poor women and girls to benefit fully from development in the past, all future programmes should focus on this issue in support of the Interim-PRSP objective to advance the position of women'. Gender equality is integrated into all programme priority areas, including:

- *specific interventions to benefit women and girls* – supporting a comprehensive rights-based approach to maternal mortality reduction, and improved access for women and girls to food, safe water and hygiene;
- *interventions to include women* – supporting a strengthened enabling environment that helps enterprises to create more and better jobs for the poor, especially women;
- *interventions to be generally inclusive* – supporting comprehensive and national programmes for Universal Primary Education and Education for All;
- supporting more *effective demands* by pro-poor groups for resources, services and realisation of rights; and
- supporting action to make the *public sector more accountable and responsive* to the interests of poor people.

The development of the current strategy reflects a long-term commitment to gender mainstreaming and a recognition of the difficulties involved. Bangladesh's first CSP had 'Improvements in the position of women in society' as one of its six key thematic objectives. A gender strategy was developed that recognised that this isolated objective was insufficient on its own. A twin-track approach was proposed for pursuing specific interventions to take forward the gender objective and for mainstreaming gender in all interventions. Reviews found that even this approach was not sufficient, and the approach set out in the current CAP has been adopted.

## 2. Integrative approaches

Human rights are integrated into the country programme, but not necessarily in a systematic manner, for example to identify human rights-specific interventions and the links and gaps between them, and to influence future decisions

### 2.1 Malawi

The origin of the integration of human rights in the DFID Malawi programme dates back to a favourable environment in the post-Banda transition, with a vibrant national interest in multi-party democracy, constitutionalism and active civil society. DFID commissioned analytical research and appointed a Human Rights Adviser, who initiated a number of project designs based on a human rights analysis.

The April 2003 CAP is based on Malawi's Poverty Reduction Strategy. It notes that successful implementation of the PRSP 'will hinge on supporting poor people to have a greater voice in defining their experience of poverty and realising their basic rights'. Though the overall CAP is not officially based on such an approach, it is explicit in its commitment to adopting a 'rights-based approach' in some sector programmes, in particular community-based rights approaches. There is also a 'Rights, Voice and Accountability' portfolio, falling under 'Pro-Poor Governance', led by a Social Development Adviser.

The overall rights-based strategy is not made fully explicit in the CAP, but can be described as follows:

- improving the responsiveness and *accountability of the state* to citizens (elections, parliament and other accountability institutions);
- improving the capacity of the poor to *define, understand and demand their rights* (in a number of sectors: health, education, livelihoods); and
- support to CSOs to provide a link between community-based, *demand-side interventions and supply-side* institutional support.

A number of programmes emphasise the importance of 'linking demand and supply sides'. For example, the Shire Highlands Sustainable Livelihood Programme links poor people's capacity to demand their rights with that of district-level service providers to provide resources and services in a transparent manner. The importance of balancing supply and demand was indicated by the 'negative' lessons of the TRANSFORM project, which focused only on the demand side of civil society advocacy in a tense political environment and elicited a very hostile response from government.

Some interventions support legal and political reforms, which aim to clarify and protect people's rights by reforming state institutions. Assistance to Parliament, for example, aims to support the realisation of the constitutionally recognised rights to health, education, gender equality and participation in peaceful political activities by strengthening parliamentary committees and the interface with the advocacy capacity of civil society. The Malawi Safety Security and Access to Justice (MaSSAJ) logframe contains specific human rights standards and objectives (e.g. respecting constitutional provisions on the time limits for pre-trial detention). It is worth noting that MaSSAJ was not, until recently, seen by the DFID Malawi programme as constituting a component of its overall 'rights-based programming', an example of the separation between rule of law / justice and human rights activities in some aspects of DFID's policy framework.

'Rights-based approach' learning projects in health and livelihoods emphasise a highly participatory and community-based understanding of such approaches, starting with the self-identification of rights by rural communities, rather than using international or constitutional definitions of social and economic rights. For example, the Local Initiatives for Health Programme began with detailed rights-based assessments by communities to 'seek to identify what women and communities view as their principal rights in terms of their ability to maintain their own as well as their families' health, and how well these rights are properly being met'. Following these learning projects, the challenge is to get the learning adopted by full sector programmes.

## 2.2 China

The current CSP notes progress on economic and social rights but less progress on civil and political rights. It suggests that there is a need to encourage the development of civil society in China. Three cross-cutting themes are to be integrated into the country programme, broadly drawing on the principles of the TSP:

- effective pro-poor government policies and initiatives;
- participation of poor people in decision-making; and
- tackling social exclusion and promoting gender equity.

Pro-poor policy comes under the principle of *fulfilling obligation*, with the specific strategies of equitable and transparent resource allocation and building capacity for better quality and more accessible service delivery.

The analysis of the existing programme has used human rights principles to identify existing entry points, potential for new work and areas for future development. It is looking for interventions at both: the strategic level, such as work with UNIFEM on CEDAW reporting and bilateral dialogue; and within existing activities, such as work in health on new approaches to HIV/AIDS, and in education on access and gender equity.

## 2.3 Rwanda

DFID is now the largest bilateral donor to Rwanda. Former Secretary of State Clare Short strongly believed that the post-genocidal government led by the Rwanda Patriotic Front should be supported to advance its peace, security, reconciliation and poverty reduction objectives. A Memorandum of Understanding and an independent monitoring mechanism were set up to ensure political dialogue on human rights (see Box 4.8).

The Rwanda CAP was identified by a review of Africa CSPs-CAPs as containing the most detailed human rights analysis. Its language also appears to be serving several purposes:

- as a strategy to allow future human rights engagement and to design an innovative programme;
- to help reaffirm the rules of engagement and justify how decisions affecting the scale and nature of the programme are to be taken, using international human rights standards as the normative framework; and
- to help identify additional areas of interventions, beyond supporting the PRSP by providing budget support.

Following the establishment of advisers in-country in 2001, DFID realised that it had much to learn about the operation of the political system, and the realities faced by poor people. Much of this work was done, but in order to consolidate DFID's policy position on human rights, the strategy jointly promoted by the Social Development and Governance Advisers was to ensure that the revised CAP offered appropriate human rights language to allow future engagement on the issue. Drawing on this policy position, a Human Rights and Citizenship Programme is being designed; it will include both a strong analytical stream, promoting research and public enquiry on human rights as public goods, and support for appropriate civil society programmes, not just on civil and political rights – the objects of most attention in Rwanda – but also on economic and social ones.

The language of the CAP is reported here in detail to show the ways in which human rights considerations can be usefully integrated in such a document, taking into account both historical context and international standards. The CAP notes Rwanda's significant achievements, but also that: 'The government of National Unity has nonetheless been subject to international and national criticism over present limitations on human and political rights in Rwanda. We recognise the realities of political and social fragility in Rwanda and concern within government that movement in these areas may risk derailing the process of national reconciliation and reconstruction. [Government] is signatory to all major international conventions specifying commitment to human rights and has also committed itself to promoting human rights through the [Poverty Reduction Strategy]. DFID's engagement in Rwanda is predicated on the government remaining committed to progressively securing all human rights for its citizens, and to establishing a fair and transparent framework for the operation of civil society and the media. Should these commitments be put into question, we will look again at the scale and nature of our programme.'

The CAP also notes limitations with the country's Poverty Reduction Strategy which, in a number of areas, is more muted. In response to this analysis, the CAP states that, 'although our main partnership is with the government', we are 'committed to developing a closer relationship with organisations outside of government and to promoting greater government accountability and more effective dialogue between government and civil society. We believe that this is critical to achieving and sustaining national and social transformation in Rwanda, providing checks and

counterweights to authoritarian governance, creating incentives for reform and enabling greater plurality in decision-making.’

As a result of this analysis, the country programme also includes a focus on supporting basic government processes:

- an accountable, effective and democratic system of governance (through support for decentralisation, democratisation, constitutional reform and election processes);
- a robust and effective civil society;
- work to establish an appropriate non-oppressive regulatory framework for independent media and to build the professionalism of the media;
- security sector reform; as well as
- a focus on gender equity.