Integrating Human Rights into Development

A synthesis of donor approaches and experiences

Prepared for the OECD DAC Network on Governance (GOVNET)

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Table of Contents

List of Boxes

List of Tables

Acknowledgements

Acronyms

AusAid	Australian Agency for International Development
BMZ	German Federal Ministry for Economic Cooperation and Development
CCA	Common Country Assessment (UN)
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CIDA	Canadian International Development Agency
CRC	Convention on the Rights of the Child
CSOs	Civil society organisations
DAC	Development Assistance Committee (OECD)
DFID	Department for International Development (UK)
EC	European Commission
EIDHR	European Initiative for Democracy and Human Rights
GOVNET	Network on Governance (DAC)
HRBA	Human rights-based approach
HURIST	Human Rights Strengthening Programme (OHCHR/UNDP)
IDPs	Internally displaced persons
IFIs	International Financial Institutions
INGOs	International non-governmental organisations
KfW	German Development Bank
MDGs	Millennium Development Goals
Metagora	Measuring Human Rights, Democracy and Governance Project (OECD-Paris 21)
MoU	Memorandum of Understanding
MYFF	Multi-Year Funding Framework (UN)
NGOs	Non-governmental organisations
NORAD	Norwegian Agency for Development Cooperation
NZAID	New Zealand Agency for International Development
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the United Nations High Commissioner for Human Rights
PD/GG	Participatory development/good governance (OECD DAC)
PRAMs	Participatory rights assessment methodologies (DFID)
PRS	Poverty Reduction Strategy
PRSP	Poverty Reduction Strategy Paper
SDC	Swiss Agency for Development and Cooperation
Sida	Swedish International Development Co-operation Agency
TORs	Terms of reference
UN	United Nations
UNDAF	United Nations Development Assistance Framework
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
USAID	US Agency for International Development
WHO	World Health Organization

Executive Summary

1. Introduction

This study was commissioned by the Human Rights and Development Task Team of the OECD DAC Governance Network (GOVNET) with a view to assisting in the preparation of an action-oriented policy in 2006. It analyses and synthesises the approaches and experiences of bilateral and multilateral agencies working on human rights and development, and offers a number of practical recommendations.

Human rights have become a more important aspect of development policy and programming since the end of the Cold War. The 1993 Vienna World Conference on Human Rights, the 2000 Millennium Summit, and the 2005 World Summit all recognise that development and human rights are interdependent and mutually reinforcing. The UN Secretary General's conception of 'in larger freedom' encapsulates the inter-linkages between development, security and human rights.

The late 1990s and early 2000s have seen the adoption of policies on human rights in the majority of agencies surveyed in this study, including both bilaterals and multilaterals such as the European Commission. Some agencies have recently developed 'second generation' policies, drawing on their past experiences. The UN system has been leading the way with a process of human rights mainstreaming since 1997 and, in 2003, agreement on an interagency common understanding of a human rights-based approach to development programming. This definition highlights:

- the relationship between development cooperation, the Universal Declaration on Human Rights and international human rights instruments;
- the relevance for development programming of human rights standards and principles derived from these instruments (e.g. equality and non-discrimination; participation and inclusion; accountability and the rule of law);
- the contribution that development cooperation can make to building the capacities of 'duty-bearers' and 'rights-holders' to realise and claim rights.

2. Donor approaches

Human rights work is seen as both an objective in its own right and as contributing to improving the quality and effectiveness of development assistance. The intrinsic reasons include the legal obligations that emanate from the international human rights framework. States party to human rights instruments are under a duty to promote and protect human rights. The concept of human dignity underlying this normative framework drives ethical and political considerations regarding the integration of human rights into development. Human rights are also seen as constitutive of development, drawing on conceptual frameworks such as Amartya Sen's capabilities, human development or multi-dimensional definitions of poverty. Finally, human rights are considered to contribute directly to objectives pursued by donors in the areas of good governance, poverty reduction and aid effectiveness.

Agencies have adopted different rationales for working on human rights; some prefer not to work on human rights explicitly. Legal, political or empirical issues are amongst some of the challenges faced by agencies; research and multi-disciplinary exchanges can inform the further development of policies and their operationalisation.

The integration of human rights into development can be classified using a five-part typology, as summarised in the table below. Most agencies are situated within the three central categories – project, mainstreaming, and dialogue – a shared feature of which is the positive use of human rights. A number of agencies are moving to human rights-based approaches, which requires institutional change in the provision of aid. In some agencies, an implicit integration can be identified. The most common form of assistance has traditionally been projects, though a strategic use of human rights can be found in the design of country programmes and global initiatives.

Human rights-based approaches	Human rights mainstreaming	Human rights dialogue	Human rights projects	Implicit human rights work
Human rights considered constitutive of the goal of development, leading to a new approach to aid and requiring institutional changes.	Efforts to ensure that human rights are integrated into all sectors of existing aid interventions (e.g. water, education). This may include 'do no harm' aspects.	Foreign policy and aid dialogues include human rights issues, sometimes linked to conditionalities. Aid modalities and volumes may be affected in cases of significant human rights violations.	Projects or programmes directly targeted at the realisation of specific rights (e.g. freedom of expression), specific groups (e.g. children), or in support of human rights organisations (e.g. in civil society).	Agencies may not explicitly work on human rights issues and prefer to use other descriptors ('protection', 'empowerment' or general 'good governance' label). The goal, content and approach can be related to other explicit forms of human rights integration rather than 'repackaging'.

3. Donor experiences

Human rights have tended to be considered part of the donor governance agenda, and the majority of direct interventions have been civil and political rights projects, often funded through civil society organisations. The shift from rule of law to access to justice policy and programming illustrates a more strategic use of human rights, influencing how situations are analysed, objectives set and aid provided. There appear to be fewer examples of a shift in the rest of the governance agenda, though a different approach to tax reform, based on the recognition of both rights and duties of citizens, illustrates the impact of a human rights perspective beyond civil and political rights projects.

Human rights are being mainstreamed in other policy and programming areas, and this study offers a review of selected sectors. A number of agencies have made significant progress in the area of children's rights, drawing on the Convention on the Rights of the Child. Human rights are also closely associated with gender equality and women's rights initiatives, drawing on the Convention on the Elimination of All Forms of Discrimination Against Women and the 1994 Beijing Platform of Action. There appear to have been more successes linking human rights to indigenous peoples than with minorities. There is a growing number of examples of health or education programming, and some initiatives in livelihoods or infrastructure interventions. These emphasise the relevance of specific human rights standards (e.g. the right to the highest attainable standard of health) and an approach based on human rights principles (e.g. promoting inclusion, participation or accountability), as

well as preventing or mitigating human rights violations associated with aid interventions.

Though there is an emphasis at a policy level on the positive place of human rights, a degree of human rights conditionality remains a feature of development programmes, with the possibility in extreme cases of suspension or termination of aid following dialogue processes. The application and impact of conditionality have not been well researched and new approaches to aid policy and modalities create opportunities to revisit this area.

4. Preliminary lessons

Experiences to-date have led to the identification of a set of preliminary lessons concerning the contribution, or 'added value', of human rights for development. These are presented to GOVNET for further discussion and testing.

The intrinsic value of human rights offers development actors an explicit normative and analytical framework, grounded in a consensual global legal regime. The framework is seen as adaptable to different political and cultural environments. In some countries, more gradual and implicit approaches have enabled political constraints to be overcome. Operational human rights principles have facilitated the integration of human rights into actual programming; agencies have adopted slightly different sets of principles, but these tend to be variations of those found in the UN common understanding. Principles derived from the human rights framework can enable the integration of human rights without an explicit approach, as can be found in the work of some of the international financial institutions. However, a real danger exists of 'rhetorical repackaging' if the association between the normative international human rights framework and aid policies and programming is blurred or removed.

Human rights also make a contribution to the governance agenda. Human rights are conceptualised in terms of 'duty-bearers' and 'rights-holders'. This highlights the importance of state-citizens linkages, combining a focus on developing the capacity of states to deliver on human rights commitments with citizens' awareness and capacity to claim their entitlements. Human rights are a source of legitimacy for state action, and put emphasis on the need for effective channels of accountability and redress. Participatory approaches are becoming more widespread in the development field, and ongoing initiatives aim to empower poor and vulnerable populations. A strategic use of human rights strengthens these trends, paying attention to the need for free, informed and meaningful participation which can be institutionalised.

Human rights can enhance the design and impact of aid in terms of poverty reduction goals, building in particular on the commitments of the 1995 Copenhagen and other UN Summits. The analytical value of human rights includes the examination of the structural and root causes of poverty, such as a focus on inequality and exclusion as a major barrier for poverty reduction. It also calls for a better understanding of the context and power relations within which aid operates. The principles of equality and non-discrimination in particular require for a direct focus on excluded and marginalised individuals and groups, and underline the centrality of disaggregated data.

Finally, human rights also contribute to enhancing the effectiveness of aid. Because human rights are grounded in the domestic responsibilities of states, aid agencies have found that the approach has enabled them to move away from a service

delivery towards a capacity building role. The interdependence and indivisibility of all human rights has encouraged holistic or integrated approaches, for example greater collaboration across related sectors or institutions. Human rights are fundamentally about challenging power relations. As a result, the approach can lead to explicitly recognition of the political dimensions of aid, not in a party political sense but, as with political economy studies, in terms of bringing the political dimensions of poverty reduction to the fore. New partnerships have been built by donors as a result, finding supportive ways of facilitating domestic change processes. A number of these contributions are not new to the development world; what human rights offer is a coherent, normative framework which reinforces 'good programming practices' by making them non-negotiable, consistent and legitimate.

5. Challenges and opportunities

There are three main challenges with which the GOVNET could engage, in terms of the further strategic integration of human rights into development.

First, aid agencies need to deepen their institutionalisation of human rights considerations, looking at their systems, procedures and staff incentives and allocating adequate resources to better translate their policies into practice. Factors which have contributed to successful change in the agencies reviewed have included:
- a supportive international and domestic political context;
- senior level commitment, accountability and communication;
- strengthening of staff capacities and incentives;
- provision of new tools and procedures; and
- adaptation to a decentralised context.

Secondly, aid agencies have found engagement with national partners difficult because of the need to overcome weak capacities in implementing human rights and in overcoming political barriers, in particular when partners' commitment is weak or when there is overt resistance to human rights. There is a strong overlap with the current work on fragile states which seems to have been overlooked, at least in agencies' explicit statements to-date. Human rights share with the DAC fragile states initiative the prioritisation of the core functions of the state; legitimacy and accountability and the creation of an enabling environment. They can also offer analytical and operational approaches for donor engagement in these difficult environments. Member states' commitment, at the UN 2005 World Summit, to 'integrate the promotion and protection of human rights into national policies' provides opportunities to strengthen the national ownership of human rights within the context of aid partnerships, in particular around national poverty reduction strategies.

Thirdly, and of utmost relevance in the DAC context, agencies now need to strengthen the integration of human rights into thinking and practice around new aid policies and modalities. Approaches towards the Millennium Development Goals have included linking the MDGs to specific human rights standards; drawing on the Millennium Declaration, which makes explicit reference to human rights; and adopting human rights-based approaches towards meeting the MDGs. There is little written at present on aid alignment and harmonisation from a human rights perspective, although the 2005 Paris Declaration calls for harmonised approaches to cross-cutting issues. There is a great deal of congruence between human rights and a number of aid effectiveness principles, such as building national capacities, greater transparency, results-based approaches or policy coherence (for example, with

foreign policy). Human rights analysis already affects both aid allocations and the choice of aid modalities and has a role to play in mutual accountability frameworks, in particular in holding aid agencies themselves to account.

6. Recommendations

On the basis of these findings, the study offers the following recommendations to guide the work of the GOVNET Human Rights and Development Task Team.

1. Map out a process with this study, the October 2005 workshop and 2006 action-oriented policy, seen as the first in a series of steps comprising: an updated policy document; efforts to deepen learning based on current initiatives; examining new areas; undertaking joint practical actions; and later preparing practical guidance.

2. Involve a wider constituency beyond bilateral and multilateral agencies, with national government partners and civil society actors, nationally and internationally.

3. Update DAC policy statements so as to better reflect current knowledge and consensus on the integration of human rights into development and to promote good practice.

4. Invest in internal lesson-learning to better document existing experiences and to inform policy development and practices.

5. Undertake joint learning initiatives, concentrating on fewer agencies or narrower themes than in the present study.
- A study of a governance sub-area where there has been a demonstrated policy and programming shift as a result of the strategic use of human rights.
- A study of achievements and impacts within an identical small set of non-governance sectors or themes.
- A study on human rights dialogue and the impact of conditionality.
- A study identifying and documenting good examples of 'do no harm' policies and associated mechanisms to monitor the human rights impact of agencies.

6. Plan and undertake joint pilots at a country or regional level in order to harmonise approaches in the field and 'learn by doing'. This could include:
- Collaborating more closely in ongoing programming initiatives (projects/ mainstreaming) where a multilateral or bilateral is already well advanced.
- Undertaking and documenting joint dialogue efforts.
- With a GOVNET mandate, piloting new harmonised approaches.

7. Collaborate in strategic DAC initiatives, giving priority to engagement in aid effectiveness debates, with the Working Party on Aid Effectiveness and Donor Practices, thus responding to paragraph 42 of the Paris Declaration.

8. Collaborate around fragile states, with the DAC Learning and Advisory Process on Difficult Partnerships and the DAC Network on Conflict, Peace and Development.

9. Collaborate around priority GOVNET themes, in particular to draw out practical lessons on the relationship between political economy and human rights analyses.

10. Continue to collaborate beyond the DAC by:
- Establishing a dedicated resource centre.

- Continuing to fund and coordinate initiatives aimed at strengthening the human rights system and mainstreaming human rights within the UN.
- Continuing to invest in initiatives that facilitate exchanges and 'translation' between the development and human rights communities.

1. Introduction

1.1 Background

In Larger Freedom, the recent report of the United Nations Secretary General submitted to the follow-up of the Millennium Summit, notes that development, security and human rights are imperative and reinforce each other: 'we will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights. Unless all these causes are advanced, none will succeed' (UN, 2005a: para 17). The 2005 World Summit outcome document echoes this message: 'We acknowledge that peace and security, development and human rights are the pillars of the United Nations system and the foundations for collective security and well-being. We recognize that development, peace and security and human rights are interlinked and mutually reinforcing (UN, 2005b: para 9).

Box 1.1: In Larger Freedom

Even if he can vote to choose his rulers, a young man with AIDS who cannot read or write and lives on the brink of starvation is not truly free. Equally, even if she earns enough to live, a woman who lives in the shadow of daily violence and has no say in how her country is run is not truly free. Larger freedom implies that men and women everywhere have the right to be governed by their own consent, under law, in a society where all individuals can, without discrimination or retribution, speak, worship and associate freely. They must also be free from want – so that the death sentences of extreme poverty and infectious disease are lifted from their lives – and free from fear – so that their lives and livelihoods are not ripped apart by violence and war. Indeed, all people have the right to security and to development (UN, 2005a: para 15).

Human rights have become a more important aspect of development agency policies and programming since the end of the Cold War. The 1993 Vienna World Conference on Human Rights marked an important turning point, reinforced by the 2000 Millennium Declaration. The UN system has been leading the way in developing a more strategic approach, beginning with the mainstreaming of human rights, announced in the 1997 UN reform programme and reinforced by the 2002 follow-up and the 'Action 2' initiative. In 2003, a landmark inter-agency common understanding provided a shared definition of a 'human rights-based approach to development'.

However, there has been much more limited work on human rights and development in the Development Assistance Committee of the Organisation for Economic Cooperation and Development (OECD DAC), the body which brings together the major donor agencies. In the 1990s, the DAC adopted a position on governance, including on civil and political rights, and noted the need for human rights work to become more strategic (OECD, 1997). DAC documents, such as the 2001 Poverty Guidelines and work on gender and security, do make references to human rights. Nevertheless, there is no overarching policy statement or guidance on the relevance of human rights for development to assist donors in working more strategically on these issues.

1.2 Purpose

Since 2003, human rights have been on the agenda of the DAC Network on Governance (GOVNET) and are currently one of only four priority themes (along with political economy; corruption; and capacity development). Significant developments, in particular within the UN system, the European Commission and a number of

bilateral agencies, have meant that there is a growing body of policy statements, guidelines, tools and actual programming experiences to inform a DAC process. These can contribute to building upon and updating existing DAC policy statements and guidance.

The purpose of this study, as defined in the Terms of Reference (TORs), was to provide a synthesis and analysis of bilateral and multilateral policies and experiences with the integration of human rights into development programming and human rights-based approaches. It has been commissioned by the GOVNET Human Rights and Development Task Team, with a view to informing the development of a DAC action-oriented policy statement in 2006.

1.3 Methodology

The TORs requested a desk review of existing material, complemented by interviews with a range of agencies, but did not envisage field work or in-depth targeted reviews. A one-day visit to the Swedish International Development Cooperation Agency (Sida) and an informal consultation with London-based international NGOs (INGOs) were also organised. Guidance and feedback on drafts were provided to the researchers by the GOVNET Task Team at meetings in Paris and London

A wealth of policy and guidance documents has been identified. The main challenge has been the relatively limited availability of well documented, independently verified programming experiences. In addition, the TORs requested that researchers start by mapping existing studies on human rights and development agencies, and synthesise their findings. While such studies do exist and have been reviewed, they tend for the most part to be rare, outdated and, at times, based on partial information or not empirically grounded.

As a result, it was necessary to modify the methodology and place greater emphasis on identifying and summarising documented practical experiences, rather than synthesising and analysing existing studies. This reflects to a significant degree the fact that it is only relatively recently that development agencies have started to work on human rights more strategically; in many cases, the impact of new policies or programmes has not yet been assessed. Some agencies, such as UNICEF, have invested considerably in learning. Nonetheless, our first recommendation to the Task Team is that **agencies need to invest to a greater extent in documenting their experiences and improving internal lesson-learning on human rights** in order to inform their own policy development and practices. This would help constitute a stronger body of shared knowledge on human rights across development actors.

1.4 Outline

The structure of the report follows the TORs. Section 2 reviews donor approaches and rationales. Section 3 provides examples of good programming practices. Section 4 draws together lessons identified in the literature to date. Section 5 identifies challenges and strategies for the further strategic use of human rights and development. Section 6 summarises the main findings and recommendations.

A number of annexes complement the main report. A first set includes those associated with the methodology (Annexes 1 to 6, covering TORs, list of persons interviewed, references, document mapping, UN common understanding, and a review of DAC processes to date). A second set summarises agency case studies as well as examples of programmes and tools.

2. Donor approaches

2.1 Policies

The trend is clear: both bilateral and multilateral agencies have adopted or are in the process of adopting or refining human rights and development policies. With regards to bilaterals, a first wave of foreign policy statements in the 1990s was often later complemented by aid agency-specific documents on human rights and development. A shared characteristic has been an emphasis on the 'positive measures' that donors can support through financial or technical assistance and dialogue so as to promote the realisation of human rights in partner countries. Multilaterals, such as the UN system or the European Commission (EC) have also developed new policy frameworks, though this is not the case with the international financial institutions.

Table 2.1 is not intended to be comprehensive. It illustrates how the majority of agencies surveyed in this study have either adopted human rights policies or are in the process of developing or updating them in light of experiences gained over the past 10 years. By comparison, there are fewer agencies with no human rights policies at all. Agencies without explicit policies may still refer to human rights in other documents, or work on human rights in indirect ways, as is examined below.

Table 2.1: Policy statements on human rights and development

Status	Illustrations
No overall human rights policies	AsDB; World Bank; WHO; USAID; AusAid
Established human rights policies	CIDA 1996; Finland 1996; SDC 1997; Sida 1997; UNDP 1998; UNICEF 1998; DFID 2000; EC 2001; Dutch 2001; NZAID 2002; BMZ 2004; UNFPA 2004; UNIFEM Multi Year Financing Framework 2004
References to human rights limited to sectoral policies	USAID (IDPs, trafficking, civilian protection)
Recently or currently developing 'second-generation' policies	UNICEF Mid-Term Strategic Plan 2002-2005
	UNDP practice notes 2003-2005
	Finland 2004
	Sida following Sweden's new 2003 'global policy'
	Dutch Ministry Action Plan 2005
	SDC 2005 (recently updated 1997 policy)
	CIDA following new 2005 international policy
	Austrian Development Cooperation
Inter-agency or multilateral agreements on or referencing human rights and development	UN Vienna Human Rights Declaration and Programme of Action, 1993
	DAC Ad Hoc Working Group on PD/GG Report, 1997
	UN Millennium Declaration, 2000
	DAC Poverty Guidelines, 2001
	UN Inter-Agency Common Understanding, 2003
	UN 2005 World Summit Outcome Document

2.2 Rationales

Why have agencies adopted such policies? The main explanatory factor is the changing international context. Human rights remained a highly politicised issue during the Cold War, with a division between states which prioritised civil and political rights and those which promoted economic, social and cultural rights. At the 1993

Vienna World Conference, a consensus was reached which recognised that 'All human rights are universal, indivisible and interdependent and interrelated' (UN, 1993: para 5), implying that states and their aid agencies should not prioritise one set of rights over the other. The Vienna Consensus also affirmed that: 'Democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing […] The international community should support the strengthening and promoting of democracy, development and respect for human rights and fundamental freedoms in the entire world.' (UN, 1993: para 8.)

There are two main rationales for agencies' work on human rights as part of development cooperation. Most agencies agree with the 1997 DAC statement that: 'Respect for human rights is seen as an objective in its own right but also as a critical factor for the longer-term sustainability of development activities.' (DAC, 1997:8.)

Intrinsic rationale

Intrinsic reasons start from *legal* obligations emanating from the international human rights framework for the protection of the equal dignity of all human beings. These obligations are grounded in a universal moral framework of common values recently reaffirmed at the 2005 UN World Summit, including freedom, equality, solidarity and tolerance.

All states party to the relevant international human rights instruments are under a duty to promote and protect human rights, including through international cooperation. The UN, which is the guarantor of the international human rights system, has since 1997 worked to mainstream human rights in all its activities. The 2005 UN summit supported the further mainstreaming of human rights throughout the UN system, including strengthening the Office of the High Commissioner for Human Rights (UN, 2005b). The 2003 UN inter-agency definition of a 'human rights-based approach' (HRBA) explicitly states that development cooperation should further the realisation of human rights as laid out in international human rights instruments (see Box 2.1). A number of bilateral agencies have also adopted the view that development and human rights are interlinked and that aid should be used in pursuance of human rights objectives.

Box 2.1: UN Common Understanding on a human rights-based approach
1. All programmes of development cooperation, policies and technical assistance should further the realisation of human rights as laid down in the Universal Declaration of Human Rights and other international human rights *instruments.*
2. Human rights *standards* contained in, and *principles* derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process.
3. Development cooperation contributes to the development of the capacities of '*duty-bearers*' to meet their obligations and/or of '*rights-holders*' to claim their rights.
4. The human rights *principles* identified in this agreement are: universality and inalienability; indivisibility; inter-dependence and interrelatedness; equality and non-discrimination; participation and inclusion; and accountability and rule of law.

Not all aid agencies accept that they are under a legal obligation to promote and respect human rights through their assistance, and intrinsic arguments are not limited to legal ones: the concept of humanity underlying the human rights framework is a strong factor behind most policies. *Ethical* arguments thus drive a positive association between human rights and aid, centred around human dignity and the need to combat poverty. *Political* factors can also encourage agencies to integrate human rights, for example public reactions to the provision of substantial amounts of

aid to governments using excessive force against their own citizens or involved in ethnic discrimination.

Intrinsic reasons also include 'constitutive' arguments (Sen, 1999), where the realisation of human rights is seen as constitutive of development:

- Drawing on Sen's capabilities framework, the 2000 UNDP Human Development Report highlights the common vision and common purpose of human development and human rights: 'to secure the freedom, well-being and dignity of all people everywhere' (UNDP, 2000:1).
- The multi-dimensional definition of poverty in the 2001 DAC Poverty Guidelines maps onto the various human rights codified under the international framework.
- The DAC Poverty Guidelines and other DAC documents describe human rights, alongside governance, democracy and the rule of law, as part of the 'qualitative' elements of development.
- The 2000 Voices of the Poor study confirmed that poor people themselves cared about civil and political rights, such as safety and security, as much as food and water, and that these were legitimate poverty reduction goals.

As aid agencies have become more familiar with the human rights framework, human rights organisations too have started to address poverty and development more directly. Under Mary Robinson, the Office of the High Commissioner for Human Rights (OHCHR) took a particular interest in poverty reduction, and international human rights NGOs are increasingly addressing economic, social and cultural rights.

Instrumental rationale

Instrumental reasons recognise the place of the international human rights framework but in addition argue that a focus on human rights can improve development aid. This can be categorised under three headings.

Starting from a traditional focus on civil and political rights, the integration of human rights in development is often seen as a contributing to *good governance*. For some agencies, human rights are defined as a sub-category of governance (e.g. SDC, Austria, CIDA and many others). For example, Germany's Federal Ministry for Economic Cooperation and Development (BMZ) locates human rights under the priority strategy 'democracy, civil society, public administration, including the promotion of human rights' (GTZ, 2004). For other agencies, human rights, democracy and the rule of law are seen as additional domains to a more 'technical' core definition of governance around the management of public resources (EC, 2001). The human rights principles of accountability, rule of law and participation are seen as contributing to more effective, legitimate and accountable governance (see Box 2.2).

Box 2.2: Sida's democracy and human rights approach
Sida's approach closely links democracy and human rights objectives. It considers that poverty, understood in its broadest sense, is a state where almost all human rights are violated, and that a lack of democracy leads to greater poverty in the long term. Under the umbrella of 'democratic governance', Sida supports initiatives on human rights, democratisation, rule of law, people's participation and good governance, all of which are seen to contribute to poverty reduction and to highlight the political dimensions of development.

It is also argued that integrating human rights into development cooperation helps to achieve more effective *poverty reduction* and social outcomes. A commitment to

human rights calls for urgent steps to tackle extreme poverty and social exclusion, which violate human dignity and the human rights of the poorest (UN, 1993: para 14). The 1995 Copenhagen Summit on Social Development set out international commitments in this area. A focus on vulnerable and excluded groups and the principles of universality, equality and non-discrimination, as well as participation and inclusion, are particularly relevant here. DFID (2000) has emphasised an empowerment approach aimed at participation, inclusion and realising the rights of the very poorest. SDC's recently updated policy (2005) strengthens its commitment to empowerment and participation by explicit reference to human rights. The World Bank recent social development policy (2005a) is based on its experience that inclusion, cohesion and accountability make development interventions more effective and sustainable.

Finally, agency statements often argue that a focus on human rights can improve the *coherence, quality and effectiveness of aid*. For example, Dutch policy highlights the links between human rights, foreign policy and development, and the use of political instruments to achieve both human rights and development objectives (Netherlands, 2004). Dutch policy also echoes *In Larger Freedom* on the interdependence of human rights, development and security (UN, 2005a).

2.3 Policy challenges

The rationales put forward for working on human rights and development are not accepted to the same degree by all donor agencies.

Some agencies mention *legal* constraints. For example, some are concerned that there may be conflicts with their mandate if they work explicitly on human rights and cite states' legal obligations. This is the case for the World Bank, for example, where human rights have traditionally been seen as 'political', or it is argued that existing human development initiatives already contribute to economic and social rights without needing to develop a new policy framework (World Bank, 1998). In general, Bank policies rarely mention the human rights framework explicitly, although borrowing country environmental obligations under international law are mentioned in the Bank's Operational Policies on Environmental Assessment (OP4.01). This suggests that it is possible for the Bank to make reference to borrowing countries' other obligations under international law, including human rights obligations. The Bank's General Counsel has recently put forward personal preliminary thoughts on the Articles of Agreements. He notes how the Bank's multidimensional conception of poverty and social equity has strong human rights dimensions, and that, in his opinion, the Bank 'can and should take into account human rights in the process it uses and the instruments it relies on to make economic decisions'. (Danino, 2005:12).

Legal constraints are often related to *political* ones: domestic political environments in donor countries may be more or less conducive to grounding aid in an international human rights framework. For example, Sweden's new global policy, which requires that a 'rights perspective' be integrated into all aspects of foreign policy including aid, contrasts with that of the USA, where there is a more selective endorsement of the international human rights framework, illustrated by the non-ratification of the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, and other international instruments. This means that USAID's poverty reduction efforts cannot be conceptualised from the perspective of economic and social rights and state obligations.

Even in such circumstances, aid agencies have still been working either on aspects of the human rights agenda (either narrowly on civil or political rights, or without using an explicit human rights language), or are currently considering how to adapt their policy frameworks. A process of stocktaking or starting to mainstream human rights work without an overarching policy are some of the entry points (see Box 2.3).

Box 2.3: Entry points for human rights in the absence of policy statements

'Protection from abuse', whether in international conflicts, people trafficking, internally displaced persons (IDPs) or the rule of law, is an entry point for **USAID**, which has recently compiled a list of human rights interventions and has appointed human rights advisors in its Office of Transition Initiatives.

The **World Health Organisation** has not adopted an overarching policy, but its Ethics, Trade, Human Rights and Health Law Department is increasing WHO's understanding of human rights in relation to health. This is facilitated by reference to the enjoyment of the highest attainable standard of health as a fundamental right in the WHO 1946 Constitution. The Department has produced numerous publications, such as 25 frequently asked questions on human rights and health, and comic strips on human rights and health or HIV/AIDS. There are also country-level initiatives. For example, Sida is sponsoring a Junior Professional Officer to work in the Uganda WHO Country Office on the right to health.

There are a number of important ongoing initiatives within the **World Bank,** and a human rights working group has been established in the Legal Vice-Presidency. The Bank's General Counsel has put forward proposals on how the Articles of Agreement could be interpreted differently and permit explicit human rights work (Danino, 2005). A human rights matrix maps out how existing Bank policies, areas of activities and projects (loans, grants, etc.) are related to specific human rights standards as set out in the international bill of rights (World Bank, 2005b). In addition, World Bank conceptual frameworks (e.g. empowerment), recent research reports (e.g. equity in the World Development Report 2006), or interventions towards particular social groups (e.g. indigenous peoples) have strong human rights content, even if they do not refer explicitly to the international human rights framework and state obligations.

Some agencies that have not adopted human rights policies have done so for *pragmatic* reasons. For example, Australia engages in human rights dialogue and funds human rights projects, such as support to national and regional human rights institutions, but does not have a separate policy for AusAid. It considers that the language of human rights adds limited value to the current governance agenda (AusAid, 2001).

There are a number of *empirical* challenges to the further development or implementation of agencies' human rights policies. Some aid agency staff consider that aid or national policies based on human rights standards and principles may constrain, rather than facilitate, poverty reduction, conflict resolution or other desirable objectives. Examples include: the need to achieve peace or health outcomes, rather than pay attention to the processes to reach those outcomes; the potentially negative impacts on growth of social spending targeted to achieve economic and social rights goals; or the incentives impacts of labour standards.

Pragmatic and empirical challenges are more amenable to evidence-based discussions than legal and political ones. Research and multi-disciplinary exchanges can inform the further development of policies and their operationalisation so as to reach a wider set of agency staff and partners (see Box 2.4).

> **Box 2.4: Building the evidence base for human rights policies**
> The Asia-Pacific Regional **Office of the High Commissioner for Human Rights** has developed a project to identify programmes and projects of the UN, NGOs, development cooperation agencies and governments in the Asia-Pacific region that have tried to use the human rights approach, to write up the lessons learned, create an internet-based database of projects and to provide assistance to UNDP and other UN agencies. It has already established the Practitioners' Forum on Human Rights in Development, which meets quarterly in Bangkok, bringing together about 40 development practitioners from UN agencies, NGOs and development cooperation agencies, to exchange practical experiences on integrating human rights into development programmes. Associated activities include: a searchable, internet-based Human Rights Approach to Development Database; a region-wide Electronic Forum on Human Rights in Development; a national-level Practitioners' Fora; a common fund to finance work of the Forum; and an occasional paper series. Underway is an initiative to identify and write up lessons learned with country case studies, such as on the Right to Food Campaign in India which examines entitlement-oriented rights-based strategies used to reclaim the right to food for vulnerable and marginalised groups.
>
> The **World Bank** is investing in empirical work to demonstrate the links between human rights and growth in order to debunk the perception that human rights are inimical to growth and provide justifications that Bank staff, who are predominantly economists, will accept. The World Bank Institute has found that 'there are consistent, statistically significant and empirically large effects of civil liberties on investment project rates of return', that state capture impairs socioeconomic development and that 'the extent of capture and crony bias is related to the degree of civil liberties in a country' (Kaufman, 2004:9-15). Various research projects are underway in the Legal Department on human rights indicators, economic justifications for the protection of human rights, and the International Covenant on Economic, Social and Cultural Rights.

2.4 From policy to practice

There is a range of approaches to implementing agencies' policies, reflecting their mandates, policy frameworks and principal modes of engagement. Table 2.2 offers a framework to categorise them, under a broad label of 'integration' of human rights.

Table 2.2: Donor approaches

Human rights-based approaches	Human rights mainstreaming	Human rights dialogue	Human rights projects	Implicit human rights work
Human rights considered constitutive of the goal of development, leading to a new approach to aid and requiring institutional changes.	Efforts to ensure that human rights are integrated into all sectors of existing aid interventions (e.g. water, education). This may include 'do no harm' aspects.	Foreign policy and aid dialogues include human rights issues, sometimes linked to conditionalities. Aid modalities and volumes may be affected in cases of significant human rights violations.	Projects or programmes directly targeted at the realisation of specific rights (e.g. freedom of expression), specific groups (e.g. children), or in support of human rights organisations (e.g. in civil society).	Agencies may not explicitly work on human rights issues and prefer to use other descriptors ('protection', 'empowerment' or general 'good governance' label). The goal, content and approach can be related to other explicit forms of human rights integration rather than 'repackaging'.

Most common have been *human rights projects*, usually linked to the promotion and protection of civil and political rights. Some agencies have undertaken commitments to human rights *mainstreaming*, which usually leads to working on human rights issues in non-governance sectors. Most bilateral aid agencies also undertake some form of human rights *dialogue and conditionality*, often linked to their foreign policies.

Human rights-based approaches indicate a deeper degree of commitment to systematically taking human rights into account. This, when taken to its logical conclusion, leads to the need to transform institutional practices. Projects, sectoral mainstreaming and dialogue/conditionality are part of the implementation menu, but the overall rationale is usually different: in the UN definition, human rights are explicitly part of the goal of development assistance, leading to a different approach to the provision of aid. As one of the few recent book-length examinations of human rights and development notes: 'At the highest level of integration, agency mandates are redefined in human rights terms, seeking to create a more structural and holistic approach to development and social change. Here we face a fundamental rethinking of the entire development practice: its ideology, its partners, its aims, its processes, its systems and procedures' (Uvin, 2004:50).

In addition to the UN system, a significant number of bilateral agencies have adopted policies that are described as HRBAs. For some, this has not led to a redefinition of their mandates in human rights terms; the human rights policy is one amongst many, and is seen as contributing to the achievement of poverty reduction and empowerment. The boundary between human rights mainstreaming and HRBA is also not watertight, as genuine efforts to mainstream across sectors rapidly leads to taking human rights into account more systematically across the organisation. NZAID's human rights mainstreaming action plan, for example, is very close to the UN's definition of what a HRBA entails, whereas some agencies committed to HRBA in their policy papers have not necessarily invested as much in institutional transformation as has NZAID (see Annex 7.4.5).

Finally, some agencies are not explicitly using a human rights framework at a policy level, but aspects of their policies or programming are consistent with what a HRBA would call for, such as a focus on empowerment and inclusion; otherwise, there may be strong congruencies at a sectoral level, for example with civilian protection or gender.

2.5 Findings and recommendations

A growing number of bilateral and multilateral aid agencies have adopted human rights policies over the past 10 years. Rationales include both the intrinsic and the instrumental value of human rights for development. In addition to normative justifications grounded in the international human rights framework, human rights are seen to contribute to governance, poverty reduction and aid effectiveness objectives.

Commonalities include attempts to use human rights positively, through projects, mainstreaming or dialogue, though the negative application of human rights conditionality remains a characteristic. A smaller number of agencies are moving to human rights-based approaches: they consider that human rights are constitutive of the goal of development and are committed to the institutional change required to align their aid practices with this new approach. Legal, political and empirical challenges have affected the development of human rights policies, with a demand for more evidence of the impact of human rights on the achievement of development objectives, such as poverty reduction.

Policy developments within the DAC do not appear to reflect changes within DAC members' policy frameworks, with seemingly little progress since the 1997 Ad Hoc Working Group Report and the 2001 Poverty Guidelines. (This is examined in more detail in Annex 6). **The current GOVNET Human Rights and Development Task Team is therefore an important initiative, which offers the possibility of updating DAC statements and policies and undertaking joint actions with a view to developing guidance based on good practices.**

The diversity of agencies' rationales and approaches suggests that the Task Team needs to set out a process to build consensus across GOVNET and the DAC, being clear about the purpose and audience of the proposed action-oriented policy. It would seem reasonable to see this study, the October 2005 workshop and 2006 action-oriented policy, as the first steps in a series, with a view to the more systematic, strategic and harmonised integration of human rights into development cooperation.

3. Programming experiences

This section illustrates how aid agencies have worked on human rights issues at a programming, as opposed to a policy or institutional, level. Following a brief review of the most common levels and types of programming, it examines three aspects of human rights integration: within governance, within mainstreaming and within conditionality.

It is not intended to be in any way an exhaustive review of all existing experiences, and it has not been possible to include some key agencies, such as the International Labour Organisation, in the survey. Nor does it suggest good practices. Illustrations in this section and the annexes rely on the information submitted to the research team within the project's timeframe. The choice of examples results from the availability of suitable and recent documented experiences (such as Piron and Watkins, 2004, on DFID) and does not imply the absence of similar initiatives in other agencies. For example, UNICEF's project to strengthen its HRBA to programming (see Box 3.2) has led to considerable investments in learning, providing the information base to track development within UNICEF and illustrate programming experiences.

3.1 Types and levels of interventions

Projects

The most traditional form of donor support for human rights consists in stand-alone *human rights projects* or programmes. These may aim to build the capacity of human rights organisations, to provide human rights training or to support the ratification of treaties and legal reform, with the objective of improving specific human rights outcomes. The majority of human rights projects address governance as a specific sector, and are examined in Section 3.2.

Support to *civil society organisations* is amongst the most common form of direct intervention, working through them to build the capacity of rights-holders to claim and enforce their rights and to mobilise for social change. Recipients are usually local or international NGOs receiving resources through bilateral or multilateral human rights funds managed by embassies or donor agencies. Less often, sectoral programmes may have civil society components, addressing the 'demand' side of reform. In addition to targeted human rights funds, donor guidelines can create incentives for CSOs to work on human rights issues, or adopt HRBA (e.g. DFID Programme Partnership Agreements with UK-based INGOs).

Country programmes

A more strategic form of human rights' support attempts to integrate human rights in the design of a *bilateral/multilateral country strategy* and in the various interventions derived from it. Annexes provide illustrations of three country programmes: Sida in Kenya, UNICEF in Vietnam, and DFID in Peru.

In addition to direct interventions and strategies, country-level approaches create opportunities to *mainstream* human rights into other sectors, for example encouraging a focus on human rights principles (e.g. participation and accountability) in more technical areas (e.g. roads or water), or supporting the realisation of economic and social rights (e.g. labour standards or social protection).

The relevance of human rights also comes to the fore in policy *dialogue*, and in the use of human rights criteria in the selection of partner countries and the nature of aid modalities. While dialogue can be positive and help identify areas for further donor support, negative human rights conditionality is also sometimes applied at this level.

Box 3.1: Sweden's Kenya programme

In Kenya, the Swedish Embassy is working on human rights and democracy at three levels. First, a range of direct interventions includes work in the Governance, Justice, Law and Order sector programme. Secondly, a mainstreaming project promotes the integration of human rights into a number of sectors. Thirdly, the Embassy is supporting a national dialogue on various forms of inequalities, with the Ambassador playing an important role

In 2003, the Mainstreaming in Action Project (MAINIAC) was set up in order to better integrate human rights and democracy principles into sectoral programmes in Kenya. It aims to build the capacity of key actors to: identify and use human rights mainstreaming indicators; undertake implementation in a manner that promotes mainstreaming; participate in dialogue; and develop an adequate monitoring and evaluation system. The sectors are: roads; water; health; integrated land and urban; governance, justice, law and order; and agriculture. A network of local resources persons has been developed to inform the programming process, and government agencies, such as the Kenya National Human Rights Commission, are actively engaged, as was demonstrated by a workshop in April 2005.

During the period of KANU rule, the Swedish government was working on developing a coherent 'dialogue strategy' in Kenya. Following the 2002 elections and the new political environment, a project was established within the Swedish Embassy with the goal of putting 'equality for growth' on the public agenda, working with CSOs/research bodies, media, other donors and decision-makers in the Executive and Parliament. Three forms of inequalities have been highlighted: gender, regional and income. A MoU was established between the Ministry for Planning and National Development, the Society for International Development (an implementing NGO) and the Embassy. The project helped the Ministry disseminate its poverty map to line ministries. The Ambassador has been writing in the press on inequality, which has now become a national issue. A national conference is being planned for 2006.

Global initiatives

Finally, donors have promoted the integration of human rights and development well beyond country programmes and direct interventions, by funding international events, research and networking at a regional or global level.

Funding multilateral organisations has been a fruitful area for bilaterals. This has been the case for the UN system in particular, such as around the HURIST initiative (see Box 3.2), and funding for the Princeton (2001) and Stamford (2003) interagency consultations which elaborated the UN common understanding. Bilaterals have also been working with development banks, which less often have explicitly referenced human rights. For example, the World Bank Social Development Strategy (2005) mentions support from Finland, Norway and the Netherlands on building donor and client country capacity for social development, including greater cooperation within the Bank and with the UN; the Japan Social Development Fund, which has supported social accountability initiatives; and cooperation with GTZ and DFID on Poverty and Social Impact Assessments.

> **Box 3.2: Bilateral support for HURIST and UNICEF**
> **HURIST**, the UNDP-OHCHR Global Human Rights Strengthening Programme, has received contributions from a wide range of bilateral agencies, demonstrating their commitment to mainstreaming human rights within the UN system: Finland, Norway, Sweden, the Netherlands, Canada, Ireland, Germany, Switzerland and the UK. With a budget of $8 million over six years and the objective of strengthening the work of UNDP in the field of human rights, the programme has supported the placement of UN volunteers working on human rights at country level, the preparation of national human rights action plans, country level programming support as well as policy development, piloting, preparation of tools and human rights programme reviews. A recent evaluation concluded that HURIST had made significant contributions to creating a UN consensus on human rights-based approaches.
>
> Through the 'Project Strengthening UNICEF Human Rights-Based Programming', started in 2000 and now in its second phase, **UNICEF** has been undertaking institutional learning as the approach is being rolled-out. This has included revising programming guidelines, methodologies and training materials; supporting regional and country-level staff; and facilitating learning across the agency. By 2005, amongst many other achievements, 35 case studies and the consolidated analysis of those studies had been completed; two global consultations had been held; and a number of annual UNICEF reviews of country programmes as well as the Mid-Term Review of the MTSP 2002-2005 had been undertaken. Activities are being implemented thanks to DFID support as well as to UNICEF regular resources, as this project is fully integrated in UNICEF's work at headquarters, regional and country levels. The project is currently being evaluated by an independent team, to assess to what extent it has contributed to a systematically increased capacity in UNICEF.

3.2 Governance interventions

Another lens through which to examine donor experiences consists in looking thematically at the content and objectives of donor interventions. Governance is the sector most closely associated with human rights, and this is where the majority of aid agencies locate the issue institutionally. As this sub-section shows, there has been a wide range of civil and political rights projects, but much less work to-date on integrating human rights into other governance areas, such as public sector reform or financial management.

Civil and political rights

The majority of direct human rights interventions have addressed civil and political rights issues, often under a governance heading, linked to democracy and the rule of law. One illustration is the European Initiative for Human Rights and Democracy (see Box 3.3). Uvin (2004:83-9) estimates that this type of aid now accounts for about 10% of aid budgets. Topics may include specifics rights, such as freedom of expression (e.g. media projects) or due process (e.g. rule of law programmes). Options include investing in organisations (e.g. national human rights institutions), processes and procedures (e.g. democratisation, including elections, parties, civic education) and structures (e.g. capacity building of state or civil society).

It is well beyond the scope of this study to synthesise and analyse donor experiences in all these domains. The wide range of subject areas and countries as well as the methodological difficulties of evaluating such interventions would require separate studies (which the GOVNET could commission). Democracy support has been more thoroughly investigated, but Carothers concludes that there is still little systematic knowledge in this area (Carothers, 1999). He reaches a similar conclusion in a more recent piece on rule of law initiatives (Carothers, 2003).

> **Box 3.3: The European Initiative for Democracy and Human Rights (EIDHR)**
> Created in 1994, the EIDHR is the EU's main financial instrument to implement its human rights and democracy policy, complementing geographic cooperation programmes and foreign policy tools. It funds predominantly civil society and non-governmental organisations and does not require the consent or involvement of state authorities. This allows it to operate in sensitive political contexts. During 2002-2004 nearly €327 million financed:
> - democracy, governance and the rule of law (67%): civil society strengthening, human rights education and awareness raising, freedom of expression/media, elections, rule of law, governance, conflict
> - abolition of the death penalty (2%)
> - torture, impunity and international justice (15%)
> - racism, minorities and indigenous peoples (10.5%)
>
> An impact assessment concluded that 80% of respondents found the EIDHR had good or very good impacts and had strengthened the capacity of CSOs. It had been less effective with regards to gender equality, and needed to be more flexible and more responsive, and improve its procedures. Two-thirds of its implementing partners came from Northern organisations.

Turning to human rights projects more narrowly, policy papers and studies reviewed for this report repeatedly highlight the following messages:
- There is a need to go beyond stand-alone civil and political rights projects and move to sectoral programming and mainstreaming.
- Support should not be limited to training and advocacy efforts but identify strategic entry points for sustainable change and capacity development.
- Interventions in these domains are inherently slow and political as they challenge the use of state power and cultural or social norms.

Access to justice

It is possible to document a trend across a number of agencies in provision of assistance in the rule of law area, towards an 'access to justice approach' which can be associated with a more strategic use of human rights. Traditional rule of law interventions have focused on institution building (e.g. courts, prisons, ministries, lawyers). These can contribute to the realisation of specific rights and standards (e.g. provision of legal representation to defendants, reducing court delays and time on remand). They also contribute more generally to institutionalising the human rights principles of accountability and the rule of law.

By including 'access to justice' in their policy documents and increasingly in their programmes, donors have started to transform the way in which they analyse situations, set objectives and provide assistance (Annex 7.3.3 and Box 3.4). Characteristics include:
- A people-centred perspective, not limiting interventions to enhancing the effectiveness of institutions but also starting from the experiences of poor people themselves, for example through perception surveys.
- Linking demand and supply activities, in particular the ability of poor and marginalised people to claim rights through the courts, and of the courts to deliver appropriate services to meet users' needs.
- Attention to the specific needs of women, juveniles, isolated populations, minorities or indigenous peoples (e.g. location, language used, simplification of procedures, cultural compatibility, best interest of the child, etc.).
- Valuing participatory research to identify poor people's priorities and pilots to test new ways of overcoming barriers.

- The use of explicit human rights or constitutional standards to set goals and benchmarks (e.g. juvenile diversion in the Convention on the Rights of the Child; civil liberties in the International Covenant on Civil and Political Rights).
- The shift not necessarily requiring explicit reference to human rights mainstreaming or a HRBA. While UNDP describes its policy in terms of implementing an HRBA, DFID does not explicitly do so and, for USAID or the World Bank, access to justice is one possible area of intervention.
- A resource-intensive approach. Lessons from UNDP Asia-Pacific do indicate that the approach is resource intensive, in terms of staff time and commitment in donor agencies, timescale, and the need to identify new partners.

Box 3.4: New access to justice policies and programmes
UNDP's Access to Justice policy emphasises the equal ability of all to use justice services. In the Asia-Pacific region, it is assisting poor people overcome barriers to access, through a process grounded in research, participation and piloting.

SDC is aiming to adopt a more systematic HRBA to justice reform. In South Africa, in partnership with UNDP, it has already successfully supported a Child Justice Project which has assisted in developing new procedures and frameworks for juvenile diversion. **Austria** has also been supporting child justice work, for example in Namibia.

USAID rule of law projects aim to improve the independence and performance of the judiciary, effective criminal prosecution and a reduction in delays, which contribute to meeting civil rights objectives. In Bolivia, an access to justice approach has led to the establishment of Integrated Justice Centres, providing more appropriate services for indigenous rural populations.

Other governance dimensions

On the basis of the information submitted to this review, there appear to be fewer examples of a policy shift impacting on programming in other aspects of governance, such as explicit references to human rights in public expenditure management, public sector reform or anti-corruption initiatives. This is possibly because human rights standards are less commonly used in these areas, though they are clearly relevant: non-discrimination in service provision; labour standards in public service reform; or rule of law and accountability for anti-corruption measures.

Some agencies are starting to address this gap: for example, with HURIST support, UNDP has been preparing a wealth of new policies and practice notes (including on access to justice, parliaments, police, decentralised governance, national human rights institutions, and the right to information); and OHCHR and UNDP organised an international seminar on human rights and governance in Seoul in 2004.

Documented examples also suggest that human rights principles have sometimes helped agencies move beyond civil/political rights and CSO projects in their governance portfolios. Though not always phrased in a human rights language, there appear to be a growing number of interventions paying attention to: institutionalising participation; providing accountability and redress; and helping to establish a different relationship between the state and citizens, based on recognition of both rights and duties. DFID Peru's work on tax reform is innovative in this regard (see Box 3.5).

> **Box 3.5 DFID Peru Political and Financial Accountability Programme**
> The programme encourages political inclusion through the review of fiscal issues, notably tax reform and budget transparency, in order to encourage greater accountability and responsiveness to poor people. It focuses on the equity potential and accountability functions of fiscal policy, in particular through ensuring that resources reach groups identified as excluded, on the expenditure side, and promoting the perspective that paying taxes is not only a duty but that it also creates rights, on the revenue generation side. As such, the programme introduces a focus on equity and accountability, rather than simply efficiency, into revenue policy and administration (see Annex 7.2.3 for more on DFID Peru).

3.3 Human rights mainstreaming

Donors' human rights policies refer increasingly to the need to mainstream human rights in other programming areas, or to adopt a HRBA. This is difficult when human rights are located within 'governance units', creating incentives to focus on civil and political rights interventions. This sub-section offers illustrations of some sectors where this has been undertaken, although, as with the governance sub-section, it is beyond the scope of this study to do so systematically or to attempt to start documenting good practices or sector-specific lessons.

Children's rights

A significant number of agencies have invested in children's rights. In addition to UNICEF or NGOs such as the Save the Children alliance, a range of bilateral agencies have developed approaches to children, based on the Convention of the Rights of the Child (CRC). For example, CIDA's efforts to integrate a human rights perspective is well illustrated through its work on a rights-based approach to child protection (see Annex 7.3.5) and Sida has made significant progress in mainstreaming a child rights perspective (see Box 3.6). The reasons seem to be:

- Children's rights are often perceived as less controversial (though some areas such as child participation or rights within the family can be particularly challenging).
- The CRC has been nearly universally ratified for many years, which has created opportunities for engagement in a wide range of countries, even where a human rights language is usually not well accepted, for example Vietnam.
- The CRC provides a useful series of entry points for programming, as it covers social and economic rights as well as civil and political rights. Particularly valuable operationally are the four CRC principles: best interest of the child; non-discrimination; right to life, survival and development; and the right to participation.
- Children's rights are also a way of engaging in a wide range of sectors by providing a clear target group, such as health (child mortality MDG); education and gender equality (by focusing on the girl child and the gender parity MDG); or protection, juvenile justice, child labour, etc.

Box 3.6: Mainstreaming children's rights in Sida

In 2003, Sida reported back to government on how it had implemented the 2001 10-point programme of the children's rights government communication. This report shows how Sida has been able to mainstream a child rights perspective.

- Sida's policy documents have increasingly emphasised children's rights. In 1999, a position paper 'The Rights of the Child in Swedish Development Cooperation' was issued to serve as guidelines. The 2002 'Perspectives on Poverty' give attention to children and adolescents in vulnerable positions.
- Guidance documents reflect children's rights. The updating of 'Sida at work' was also important: whereas children were not mentioned in the 1997 version, the updated version facilitated the mainstreaming of children's rights by referencing the position paper.
- A child rights perspective is becoming more visible in country strategies, such as in the regional South America strategy and Zambia country strategy. The 2001 guidelines for country strategy, which require paying attention to children's rights, were seen as a contributor to this process.
- Sida's cooperation with the UN system pays particular attention to children's rights. Support to WHO is based on a human rights perspective paying particular attention to women and children, for example in the areas of maternal mortality and the right to sexual and reproductive health. Its support to the ILO includes a project on 'Understanding Children's Work and its Impact'.
- The review also documents Sida's policy and programmatic contribution to the selected four strategic areas. These integrate the principles of the best interest of the child, gender and non-discrimination, but participation was more difficult to achieve.
- Sida exerts international influence on children's rights by working with the UN, EU and other bilaterals.
- UNICEF is Sida's largest channel, with responsibility for 40 programmes in partner countries. Swedish NGOs also receive Sida funding and work with local organisations, in particular Swedish Save the Children.
- The review showed the difficulty of quantifying resources allocated to mainstreaming children's rights beyond support to UNICEF and Save the Children.
- This effort had been led by the equivalent of one full-time post in the Democratic Governance Division with responsibility for training, developing material and acting as advisers and a network of Sida programme officers who have received basic training in children's rights.

Women's rights and gender equality

There is a great deal of overlap between the growing body of work on gender equality and the integration of human rights. Most donor agencies have adopted gender equality policies requiring both gender mainstreaming and interventions directly targeted at women. The approaches share a great deal at a normative and conceptual level: non-discrimination, including gender equality, is a fundamental human rights principle; the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) provides a clear framework and monitoring mechanism aimed at eliminating gender-based discrimination; and the 1994 Beijing Declaration is the foundation for a wide range of national initiatives. The DAC Guidelines for Gender Equality and Women's Empowerment in Development Cooperation (1998) explicitly refer to these frameworks. There is also a DAC GENDERNET 'tipsheet' on human rights and gender, funded by AusAid.

At a programming level, the content of interventions is often very similar and, as a number of illustrations from this study demonstrate, women's rights are central to the systematic integration of human rights in aid (see Box 3.7). Women in development, and gender policies and programmes, are also a way of working on human rights without explicit overarching human rights policies. The World Bank, for example, periodically undertakes gender assessments to inform policy dialogue and country assistance strategies. Gender is also one of the criteria used in the World Bank's

Country Policy and Institutional Analysis, which includes ratification of CEDAW as a factor for consideration. USAID has undertaken a significant amount of work on women in development, including on anti-trafficking, women's legal rights, trade liberalisation and education. The approach focuses on overcoming obstacles to opportunities rather than explicit human rights programming.

In some agencies, there are opportunities for greater collaboration between human rights and gender equality work: for example, within Sida, gender experts were not a core part of the democracy and human rights team; UNICEF is only recently integrating its gender and human rights advisory capacity more closely into its Global Policy Section. It is beyond the scope of this study to review experiences with gender equality across agencies. A number of recent evaluations and reviews identify the difficulties in putting gender mainstreaming into practice and require renewed efforts (Sida, 2002; EC, 2003; DFID, 2004). These lessons are also applicable in the field of human rights, and point to the timeframe required for seeing results from mainstreaming policies aimed at tackling power inequalities. There could thus be potentially fruitful exchanges between GOVNET and DAC's GENDERNET.

Box 3.7: Linking human rights and gender

The 2002 review of the implementation of **UNICEF**'s HRBA found that a number of Country Offices were trying to mainstream gender, but that there were few examples of this being done systematically. The majority of interventions responded to the needs of women, such as in the area of safe motherhood, required by women as mothers rather than as rights-holders. The mantra 'children and women' was seen as unhelpful, as it did not necessarily entail programming for women's rights.

DFID programming in Bangladesh has evolved over time, starting with the thematic objective: 'improvements in the position of women in society'. More recently, it adopted 'girls and women first' as the organising principle of the country strategy, integrating gender equality in all the country programme's priority areas, including promoting generally inclusive interventions; supporting more effective demand for the realisation of rights; and highlighting more responsive and accountable government.

The **European Commission** explicitly frames gender inequality within the context of the denial of human rights and its two-fold approach includes both gender mainstreaming and specific measures for women. In 2003 the EC commissioned an evaluation to assess how successfully gender had been integrated into its development cooperation. Synergies between gender and other cross-cutting issues, in particular human rights and democracy, have been relatively well-developed, with clear commitments to the rights of women and the girl child, Beijing principles and specific objectives relating to, for instance, political participation, traditional practices etc. However, objectives and approaches that link gender equality and human rights and development have yet to be developed. The report identifies other challenges such as: a low level of awareness of the gender policy amongst staff and partners; the existence of insufficient resources, capacity and the necessary institutional culture to support mainstreaming; and the absence of clear guidelines on operationalisation in order to support a coherent approach to gender mainstreaming.

Minorities and indigenous rights

Programming linking human rights standards and vulnerable or excluded groups includes minorities and indigenous peoples. A recent review has concluded that more progress has been achieved with regards to indigenous rights, with much less work on other ethnic, religious and linguistic minorities (see Annex 7.3.6 and Box 3.8). The politically sensitive nature of minorities' rights in some regions contrasts with the more successful advocacy of indigenous peoples in many parts of the world.

> **Box 3.8: Minority and indigenous rights**
> In a paper submitted in 2003 to the UN Working Group on Minorities, Minority Rights Group International reviewed donor agency support to minorities. It concluded that some good progress had been made by some agencies towards considering indigenous peoples in policy and programming. There had been much less work on other ethnic, religious and linguistic minorities. It recommended much larger capacity building and programming efforts by donors. It positively noted the following initiatives:
> - **Inter-American Development Bank**: Action Plan to address social exclusion based on racism or ethnic background.
> - **Sida**: good coverage of minorities in its Perspective on Poverty guidance.
> - **SDC**: training on the inclusion of minorities in development cooperation through a HRBA and backstopping mandate on minority rights.
> - **UNDP**: development of a policy note on minorities.
>
> In 2005 the **World Bank** issued an updated policy on indigenous peoples (OP/BP 4.10) and is planning orientation workshops and guidance to assist staff with implementation. The policy requires the design of Bank-financed projects to avoid adverse impacts and provide culturally appropriate benefits. Design requires screening, social assessment by the borrower, consultation with affected communities, preparation of a plan or planning framework, and disclosure. It aims to ensure that financing is only provided where free, prior and informed consultation results in broad community support, including broad support by the affected indigenous peoples for physical relocation in incidences where this is unavoidable. The Bank has also recently established a Global Fund for Indigenous Peoples which provides direct grants as well as support to the UN permanent forum for indigenous peoples.

Health

A significant number of health or HIV/AIDS policies make reference to human rights (e.g. discrimination of persons living with HIV/AIDS), although they do not always provide operational guidance to address those issues (e.g. how to reconcile public health and human rights objectives in practice). Tools and innovative programmes are being developed in order to illustrate how a HRBA to health can be implemented through development cooperation. For example, research and documented donor experiences illustrate how successful approaches to reproductive health and maternal mortality require that interventions examine the barriers faced by women to accessing services, in particular those related to gender discrimination, as well as sensitivity to cultural and religious factors (see Box 3.9).

> **Box 3.9: Gender and health outcomes**
> The Maternal Mortality MDG is off-track. By moving to a HRBA, **UNICEF** in Peru was better able to understand the gender, economic and geographic barriers to poor indigenous women using healthcare centres. Starting from their point of view, UNICEF identified how to work with a range of state and non-state actors to provide culturally appropriate health services and educate communities about safe-motherhood practices.
>
> Similarly, **DFID** has developed a 'how to' note to help staff programme in a different way. It argues that approaches based on public health and health systems can be complemented by a focus on, for example: adequate laws and policies that take women's rights into account; addressing inequalities in accessing services and improving the quality of care so that services are tailored to women's needs; and increasing women's knowledge of their rights to healthcare, for example through social mobilisation or community-managed support systems (see Annex 7.4.2).
>
> The **World Health Organisation** does not have an official human rights policy. However, a human rights team has a mainstreaming responsibility. It is starting to develop tools and provide examples of good practice. It has, for example, produced a guide to health, human rights and PRSPs and is working with the UN Special Rapporteur on the Right to Health, such

as in the area of indicators. However, without an explicit policy endorsement and the commitment of more resources, it is felt that progress will be limited.

By contrast, **UNFPA** recently adopted a policy note on HRBA, complemented by an information note. With a mandate for reproductive rights and health, UNFPA is working within a particularly controversial area. However, while being clear that cultural claims cannot be used to justify the violation of human rights, UNFPA is committed to finding culturally sensitive ways to engage with human rights. Innovative work is underway within its country programmes in order to build partnerships with communities and faith-based organisations (see Annex 7.4.3).

Education

Donor policies also often refer to the right to education, and there is an increasing range of experiences with regards to adopting a HRBA to education. In addition to putting into practice human rights principles such as participation, non-discrimination and accountability, it is seen to entail working not just on the realisation of the right 'to' education, but also on rights 'in' and 'through' education, such as paying attention to the overall educational framework (curricula, governance structure, distribution of resources in the education system) as well as to the social outcomes of education (see Box 3.10).

Box 3.10: Sida and UNICEF right to education initiatives

Sida
- Sida's Education Division has worked on developing methods to mainstream human rights and has been reorganised into two working groups, one devoted to a democracy and human rights perspective. In addition to a first paper on 'Education for All: A Human Rights and Basic Need', it later issued a position paper on 'Education, Democracy and Human Rights', demonstrating the importance of rights 'to, in and through' education.
- It commissioned surveys which showed that countries' legislation often corresponded with the Convention on the Rights of the Child, but that indirect costs (such as uniforms) constituted a barrier. The rights to participate and to healthcare in schools were not often met, and there was discrimination against those with HIV/AIDS and refugees.
- A human rights analysis has informed many country dialogues, such as in Ethiopia in support of the UN Special Rapporteur on the right to education; in Mozambique on the issue of the legal right to free education; and in Cambodia to improve rural schools.
- As with other bilaterals, a great deal of Sida support on the right to education is channelled through UNICEF.

UNICEF
- In Pakistan, UNICEF and SDC have collaborated in a project to enhance skills for girls. This has included home-schooling and leadership and negotiation skills. It has assisted girls in obtaining their rights without inducing a negative reaction from their family and community.
- In Peru, a rights-based analysis was used to identify the Andean and Amazon regions as those where children's rights were most at risk. The 'Opening Doors to Education for Rural Girls' Programme calls for identifying and overcoming all of the cultural, economic, health-related, and in-school factors that have resulted in girls' exclusion from primary education.
- In Burkina Faso, a range of strategies were used to improve access and quality of education (e.g. communication for behaviour change, multi-sectoral approach, expanded partnerships, capacity building), with a focus on complementary strategies, such as food aid and microcredit for families sending girls to school, and improvements in safety and privacy for girls.
- In Chile, a rights analysis showed that poor urban and rural adolescents were deprived of their right to education through low-completion rates. Through mobilisation of duty-bearers (parents, teachers, faith-based groups), UNICEF assisted the preparation of a

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new law under which the state assumed responsibility for providing 12 years of free education for all.

Livelihoods

Integrating human rights in livelihoods programmes has been more challenging for donors, possibly because the relevance of human rights standards requires more analysis. Some normative developments are very recent, for example with regards to the right to water (a general comment was only issued in 2003), or the right to food (the Food and Agriculture Organisation agreed voluntary guidelines to implement the right to food in 2004, after 20 months of negotiations).

There are a number of good examples. UNIFEM has been able to achieve successes by adopting a HRBA to women's land rights in Central Asia, based on 'bridging analysis' linking specific human rights commitments with policy-relevant recommendations. INGOs, often funded by donors in their larger programmes, have also been documenting their experiences, which in the main rely on the introduction of human rights principles, such as participation, in programming (see Box 3.11). DFID has undertaken considerable research comparing HRBAs and 'sustainable livelihoods'. The conclusions are that HRBAs contribute to a greater focus on power relations and policy processes; encourage the use of participatory planning; and help establish local accountability mechanisms. Inclusion was more difficult to achieve.

Box 3.11: Food and land rights interventions

In Kyrgyzstan, **UNIFEM** has been involved in supporting a greater focus on women's rights as part of the land reform process. Achievements have included submitting draft amendments to the existing Land Code and related policies to the relevant government agencies and Parliament; strengthening the capacity of local government officials and staff to better protect women's rights to land; and increasing the understanding of the general public (see Annex 7.3.4).

Humanitarian assistance in Sierra Leone was distributed in collaboration with Village Development Committees, which often resulted in misappropriation of inputs. With DFID support and on the basis of participatory research **CARE** has facilitated dialogue centred on the development of community mechanisms to ensure the accountability of their representatives on the Committees and greater inclusion in the distribution of food aid.

Infrastructure

Human rights can play a positive role in infrastructure programmes: for example, they can be developed through a HRBA. By demanding rigorous political and social analysis, such an approach to design and implementation is considered to have helped prevent interventions from inadvertently reinforcing existing conflicts and power imbalances, as found in WaterAid projects (see Annex 7.3.7).

Large infrastructure programmes, such as the construction of dams, can also be a direct cause of human rights violations, for example by resulting in forced displacements without compensation. A number of agencies are trying to introduce 'do no harm' policies to prevent or mitigate negative impacts. For example, the World Bank has a policy on involuntary resettlement, recognising the economic, social and environmental risks associated with development projects in this area and the need for safeguards to address and mitigate them (see Box 3.12). The World Bank's Inspection Panel was set up to ensure that the Bank complies with its own policies. This can have the indirect effect of preventing human rights violations, although it was not established for that purpose.

> **Box 3.12: World Bank Involuntary Resettlement Policy**
> The World Bank aims to mitigate the risks that may result from involuntary resettlement. It recognises that such displacement may cause severe long-term hardship, impoverishment, and environmental damage unless appropriate measures are carefully planned and carried out. The Bank's policy objectives are:
> - Involuntary resettlement should be avoided where feasible, or minimised, exploring all viable alternative project designs.
> - Where it is not feasible to avoid resettlement, activities should be conceived and executed as sustainable development programmes, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programmes.
> - Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.

3.4 Human rights dialogue and conditionality

Human rights projects and mainstreaming efforts offer a positive way of connecting human rights and development. Yet, as noted by Uvin (2004:56), 'When people first consider the relation between development and human rights, [they] most spontaneously begin by thinking about conditionality. They argue that donors should threaten to cut off development assistance – and execute that threat – to recipients that consistently violate human rights'. This view can be found in the DAC Ad Hoc Woking Group 1997 Final Report, which states that: 'Development cooperation stresses positive measures for the promotion of PD/GG. The withholding of assistance should be reserved for cases where persistent violations of men, women and children's basic rights are not being addressed by the government and no adequate basis of shared values and interests exists to permit a real partnership'.

Most bilateral agencies have explicit political conditionality policies, which they have applied more or less consistently (on SDC and DFID see, Piron and Court, 2003; Piron and de Renzio, 2005). Since the early 1990s, the European Union has introduced human rights clauses in its agreements, and considers human rights, democracy and the rule of law as 'essential elements' of development cooperation, which can lead to the suspension of aid (see Box 3.13). A wide range of dialogue approaches has been used to respond to systematic violations or weak commitment to human rights: at a technical (project) level; in the context of agreeing overarching country strategies; or as part of foreign relations. Sometimes donors engage in both bilateral and multilateral dialogues with the same countries (e.g. bilateral dialogues with China and Iran as well as through the EU). The suspension of aid has usually been the exception and a measure of last resort. Anecdotal evidence suggests this is usually linked to democracy issues (e.g. coups, fraudulent elections) rather than other rights, in particular economic or social rights.

The application and impact of political dialogue and conditionality have, however, not been well researched recently (older studies include Burnell, 1994; Stokke, 1995; Crawford, 1997). Weaknesses in traditional approaches have been identified (effectiveness, consistency in application, ethical dilemmas) and it is recognised that new aid policies and modalities require a shift in current practices (see Section 5). There is much to be learnt from existing donor experiences, but documenting and sharing them in public fora is considered politically sensitive. Sida is planning an evaluation of its dialogue experiences, and DFID is planning to make available an empirical study of the application of political conditionality to general budget support in Africa, which also recommends learning about good dialogue processes.

> **Box 3.13: Human rights conditionality: European and Finnish examples**
>
> The **EU** has a range of policies and experiences which could inform the GOVNET: the Cotonou agreement with Africa, Caribbean and Pacific countries makes explicit references to human rights and creates a mechanism for structured dialogue and eventual aid suspension if issues are not resolved. The EU also undertakes dialogues focusing exclusively on human rights (e.g. with China since 1996 and Iran since 2002); dialogues within the framework of joint commission meetings as part of EC Trade and Cooperation Agreements (e.g. Bangladesh, Laos, Vietnam); as well as many other ad hoc and other exchanges.
>
> The EC Governance Guidelines suggest basic criteria that need to be respected for aid programming to take place. Minimum governance standards include respect for: non-derogable rights; equality and non-discrimination; and non-retrogression.
>
> **Finland**'s position on conditionality is consistent with that of most other bilaterals. It is committed to long-term cooperation but serious human rights problems may lead to a reduction or end of aid. It pays attention to a country's commitment to improving human rights, democracy, equality and corruption in its overall assessment of its commitment to development. In 2001, Kenya, Zambia and Nicaragua failed to meet conditions relating to human rights, democracy and good governance but since then the situations have improved and cooperation is increasing. In 2004, Finland considered that instability and the poor human rights situation in Nepal meant there were no possibilities for increasing cooperation.

New approaches to aid policy and modalities create the opportunity to revisit some of the common assumptions about the 'negative' integration of human rights through conditionality. The recent studies that do exist about dialogue and the application of sanctions point to a number of lessons relevant for what is being called a 'post-conditionality' approach in the PRSP context of 'process' conditionality and selectivity (Harrison, 2001; Santiso, 2003; Uvin, 2004; Piron and de Renzio, 2005). Section 5 offers a set of principles which the GOVNET could consider.

3.5 Findings and recommendations

Donors have been integrating human rights through direct projects, in their country programmes and at a global level, for example through international organisations.

Most traditional interventions have been in the form of civil and political rights projects, often supported through civil society funds and closely associated with democracy and the rule of law. Some governance programming areas, such as access to justice, have started to change as a result of the introduction of HRBAs, but in general it is difficult to assess wider trends, in particular in governance areas where political dimensions have only more recently been taken into account. The absence of an explicit application of a human rights perspective to the wider governance agenda within the agencies reviewed is possibly one of the clearest gaps in donor experiences reviewed here. In addition, more efforts would be needed to construe human rights beyond civil and political rights, for example by paying greater attention to how improved governance can contribute to the greater enjoyment of core economic, social and cultural rights.

There have been significant efforts at human rights mainstreaming across a number of non-governance sectors. Possibly because they are perceived as politically less sensitive and because of UNICEF's successes in implementing its HRBA, child rights has been a particular area of documented activities, as have health and education. Gender equality interventions also significantly overlap with women's rights programming, though the relationship to human rights is not always built upon. On the basis of limited evidence, the review suggests that donors may have less systematically documented or linked human rights to other areas, such as minorities,

infrastructure or livelihoods. Further examination would be needed to confirm this finding.

Though commonly applied by bilateral agencies and the EU, there has also been limited recent donor research on the use and impacts of political conditionality. This remains a central challenge for new approaches to aid effectiveness.

These findings show that programming efforts have aimed at putting human rights policies into practice in a more strategic manner beyond responsive projects. This marks a positive development since the DAC 1997 Ad Hoc report, which recommended that 'support for human rights should evolve towards strategic approaches enabling opportunities to be exploited more systematically within a framework of longer term objectives'.

A contradiction seems to remain in a number of agencies between the rhetorical commitment to the indivisibility of all human rights, and the prominence given to civil and political rights programming. It would be useful for the **GOVNET and DAC to note that human rights are not limited to civil and political rights and are not only a subset of the governance agenda**. This would require updating some of the existing DAC frameworks, for example the 2001 Poverty Guidelines, which associated human rights with civil and political rights (DAC, 2001:38-39). This identification of human rights with civil and political rights has also affected governance programming, with limited evidence and advice on how a wider range of governance interventions could strengthen the realisation of economic and social rights. An updated DAC statement would firmly anchor the guidance for agencies in the consensus achieved over the multi-dimensional nature of poverty, linked to the cross-cutting nature of human rights.

GOVNET could also reflect on what seems to be the absence of an explicit application of a human rights perspective to the wider governance agenda. This could be examined in some of the GOVNET ongoing priority themes, such as the relationship between human rights and political economy studies (drivers of change/power analysis); corruption; and capacity development. The first topic would seem to be a priority given the close relation to human rights analyses. Governance indicators are also within the remit of GOVNET and of relevance to the further development of human rights indicators.

There are also opportunities to learn from, and collaborate with, other DAC subsidiary bodies, such as GENDERNET or POVNET, given the cross-cutting, as opposed to sectoral, nature of human rights though the Task Team needs to bear in mind the need not to seek partnerships across all of the DAC.

Aid agencies need to invest more in knowledge management and undertake more in-depth reviews and evaluations in order to identify gaps and lessons, and quantify interventions and their impacts. **Specific issues for joint research and analysis which the Task Team could prioritise** as part of the action-oriented policy and the preparation of practical guidance include:
- Systematic study across a few donors of a **governance sub-area** where there has been a demonstrated policy and programming shift (e.g. rule of law/access to justice was reviewed here, but democratisation, decentralisation, or accountability interventions might provide another topic).
- Achievements of non-governance interventions which have an explicit objective of human rights mainstreaming or HRBA within an identical **small set of sectors** to allow comparison and lessons (e.g. health, education).

- Study on **human rights dialogue and the impact of conditionality** by bilateral agencies and the EC, including the collaboration between development cooperation agencies and Ministries of Foreign Affairs (e.g. building on the DFID and Sida studies).

4. Preliminary lessons

The methodology used for this synthesis prevents the identification of sector-, project- or country-specific lessons or measurable impacts. However, a number of existing studies have put together key messages about the contributions of more strategic forms of human rights integration in development cooperation. These tend to cover lessons or anticipated results regarding the application of human rights-based approaches, though they are still relevant for other forms of positive support.

This section summarises some of these lessons found in the literature, grouped under the headings of the 'rationales' set out in Section 2. They are put forward for further discussion and testing by the Human Rights and Development Task Team.

4.1 Intrinsic value

Explicit normative and analytical framework

Human rights offer a coherent normative framework which can guide development assistance. It puts the human person at the centre of the analysis, linked to state obligations and citizens' entitlements. It is a universal framework into which states enter freely, with a jurisprudence to support decision making. Its grounding in a consensual global legal regime creates a normative legitimacy and consistency which is not always found in development interventions – for example in the sometimes subjective prioritisation by funding agencies.

In addition to the intrinsic value in using aid in a manner that promotes and respects human rights abroad, development agencies have pointed to the analytical value of human rights. There have been changes to project cycle management and new tools developed, which have enabled agencies to ask new questions and analyse situations differently. The bridging analysis undertaken by UNIFEM, for example, helps unpack the meanings and requirements of relevant human rights standards for particular contexts and contributes to development partners' understanding of how human rights guidance can enhance existing work (see Box 4.1).

Box 4.1: Women's rights as an entry point to analyse land reform
UNIFEM's bridging analysis in Central Asia has enabled projects to use the international framework so as to identify priority areas. For example, such analysis has pointed to the need to examine the following aspects of a land reform process: women's right to land; women's rights in relation to family; women's access to credit; and the impact of stereotypes, discriminatory customs and religious laws on women's access to land and property.

Adaptability to different political and cultural environments

Aid agencies and their partners are sometimes concerned that programming in this area is simply too difficult, for example because of conflicts between human rights and local religion or culture, or certain political contexts. Some agencies have been able to use human rights as tools to engage with, and influence, harmful and discriminatory practices which might otherwise remain unchallenged. For example, with regards to health and reproductive rights, UNFPA has been able to identify culturally sensitive ways of engaging with human rights, drawing on Islamic sources in Muslim countries, or distinguishing between culture at large and 'harmful practices' which violate women's rights (see Annex 7.4.3). UNICEF has also adopted different approaches in different country situations, for example a focus on policy, legal and institutional reforms in Latin America; community-level work in parts of Africa; and a

progressive approach to human rights engagement in Vietnam, showing the importance of the 'time-factor' (see Annexes 7.1.2 and 7.2.2 and Box 4.2).

Box 4.2: UNICEF's work in Vietnam

This country programme demonstrates the results of long-term engagement using a non-confrontational language and high-level political dialogue in centralised socialist political systems. Child rights principles were first introduced in UNICEF analysis and planning without the use of explicit rights language which would have been too sensitive. By broadening the range of its state and party counterparts, UNICEF was able to raise awareness of children's rights in a number of areas. Successes have included progress with legal reform, juvenile justice and child protection. As the case study notes 'patience, persistence and appropriate strategies for the use of language were instrumental in the process'.

Use of operational human rights principles

Programming around operational human rights principles has been a fruitful approach in many agencies, such as Sida, DFID and many other bilaterals. Slightly different sets of operational human rights principles have been developed and used but in general they are a combination of the principles found in the UN Common Understanding (see Box 2.1). At the sectoral level, other principles derived from the UN treaty monitoring bodies' general comments with regards to economic and social rights (e.g. accessibility, adaptability, acceptability, affordability of services) also offer promising operationalisation strategies.

For agencies which have not adopted explicit human rights policies, operational principles also offer a strategy for working on human rights in what might be called an 'implicit' manner. This is the case with the World Bank's Social Development Strategy (see Box 4.3).

Box 4.3: World Bank Social Development Strategy

In 2005, the World Bank adopted a new Social Development Strategy *Empowering People by Transforming Institutions*. While it is not grounded in the international human rights framework, it is based on commitments found in the UN 1995 Copenhagen Social Development Summit and the 2000 Millennium Declaration, and explicitly notes the similarities to related frameworks, such as Amartya Sen's work on capabilities or Japan's endorsement of 'human security' as an overarching framework.

The strategy presents three operational principles closely related to other agencies' human rights principles, in particular non-discrimination, inclusion and accountability.
- Inclusive institutions to promote equal access to opportunities, enabling everyone to contribute to social and economic progress and share in its rewards.
- Cohesive societies to enable women and men to work together to address common needs, overcome constraints and consider diverse interests.
- Accountable institutions which are transparent and respond to the public interest in an effective, efficient and fair way.

Operationally, the Bank is committing itself to changes which are also consistent with the implications of HRBA, such as: working at a more macro level; better incorporating social development in poverty reduction strategies through policy dialogue and policy lending; improving the development effectiveness of projects through a more comprehensive and efficient mainstreaming of social development, such as more participation in monitoring and evaluation; and better grounding with improved research, capacity building in partnerships, such as research on rights-based approaches and affirmative action policies in India or research in the Legal Vice Presidency on the linkages between the Bank's mandate, policies, activities and human rights.

Relevance of the international human rights framework

It is, however, important not to blur excessively the boundaries between operational principles which might be related to human rights, and interventions grounded in the human rights framework. There is a danger that 'rhetorical repackaging' (Uvin, 2004) might occur, with every single intervention aimed at enhancing accountability, by using a participatory approach or channelling aid through CSOs described as 'rights-based', or arguing that a donor is contributing to social and economic rights simply because of investments in schools or job creation. Such interventions would need to be related to specific state obligations in order to be categorised as contributing to the realisation of human rights.

The UN Common Understanding offers a useful framework for distinguishing between elements of HRBAs which are 'unique' and those which are 'essential' but shared with other perspectives and more commonly found in development (see Annex 5). 'Unique' elements are those clearly linked to the human rights framework:
- Unique elements: This would include assessing the capacity of rights-holders to claim their rights, and of duty-bearers to fulfill their obligations, and then develop strategies to build these capacities. Programming is informed by the recommendations of international human rights bodies and mechanisms.
- Essential elements: For example as recognising people as key actors in their own development, rather than as passive recipients of commodities and services, and valuing participation, empowerment, and bottom-up processes.

4.2 Governance

State-citizens linkages

Donor interventions have a tendency to work either on the 'supply-side', for example in reforming state institutions so that they become more effective, or separately on the 'demand-side', such as civil society advocacy campaigns, in order to promote responsive governance. The use of HRBAs is seen as helping to break this artificial distinction by focusing on the links between demand and supply through the conceptual lens of 'rights-holders', 'duty-bearers' and citizenship (see Box 4.4).

Box 4.4: Combining citizens' awareness with the state's ability to deliver
Claiming citizenship rights requires that citizens be registered in the first place, so that they can legitimately demand their entitlements. In **Bolivia**, DFID and other donors are funding a project which assists in: providing identification documents to undocumented Bolivians (in particular the poor, women and indigenous people); raising awareness about citizen's rights amongst civil society, civil registration officials and members of the electoral court; as well as working with the 'supply' side, in this case increasing the capacity of the court and registration service to undertake the referendum and municipal elections during 2004-2005.

In **Peru** DFID has also supported both the mechanisms of citizen participation and the formal institutions of representative democracy. It worked with a coalition of state and CSOs to facilitate electoral education and oversight during presidential, congressional, regional and municipal elections. The aim was to strengthen citizenship by fostering the active involvement of poor people in the electoral process. At the same time, DFID assisted in transforming the institutional/legal framework in which the political parties operated, by bringing together state and civil society actors to discuss and achieve consensus on a new Law of Political Parties and a reform of the electoral code. It also worked directly with parties (see Annex 7.2.3).

Accountability, redress and legitimacy

Strengthening state legitimacy is fundamental to the governance agenda and respect for human rights standards in itself offers a source of legitimacy. Institutional channels for domestic accountability are becoming an important development concern in the context of improved aid effectiveness (e.g. in relation to general budget support and financial management), but also as a spur to pro-poor domestic reform (e.g. encouragement of parliamentary involvement in PRS). Human rights provide an accountability framework at the international, regional and national (constitutional) levels, which emphasises the need to document and monitor practices and progress regularly, and provides recommendations, compensation or redress. This channel of accountability can be used to hold not just states but also aid agencies accountable for their performance (see Section 5).

The approach highlights the importance of a range of accountability structures and remedies to be made available. Various initiatives reviewed for this study aim to build accountability processes and institutions, for example around the rule of law (see Annex 7.3.3) but also around democracy and political participation (see Annex 7.2.3).

Meaningful participation

The policies and programmes reviewed for this study demonstrate that HRBAs are often associated with the adoption of participatory techniques. DFID has, for example, been investing in 'Participatory Rights Assessment Methodologies', which have been piloted in Peru and Malawi. UNICEF has used a participatory community development strategy in parts of Africa. In addition to approaches that aim to contribute to the empowerment of poor and vulnerable populations, the integration of human rights requires paying attention to the need for free, informed, and meaningful participation which can be institutionalised and impact on public policy choices (see Box 4.5 on child participation and labour). More traditional human rights projects, such as around civic education or election processes, have contributed to this process (see Box 4.4).

Box 4.5: Child participation and CIDA
Child rights programming by donors and NGOs such as Save the Children has emphasised child participation. In some cases, this has led to outcomes that were not anticipated. For example, CIDA has been funding child participation pilot projects as part of the implementation of its 2001 *Action Plan on Child Protection*. The pilots have included child participation in decisions that affect them throughout the project cycle. CIDA has also supported the participation of children in research, international conferences, and policy dialogue. In its Egypt pilot, it was observed that child labour often benefited children and their families. Save the Children has also come across this finding as a result of child participation. Rather than directly addressing abolition, the project supports working children, to improve their learning and working conditions: they are empowered to identify labour hazards and to design appropriate responses. At the national level, the Egyptian government has asked the CIDA project to advise on a methodology for a participatory, rights-oriented national strategy for children (also see Annex 7.3.5).

4.3 Poverty reduction

Examination of the root causes of poverty

The lessons put forward under a 'governance' heading also contribute to those related to poverty reduction, in particular around participation and empowerment and the transformation of state-society relations. Many studies highlight the analytical value of human rights for identifying the structural and root causes of poverty.

Replacing a 'needs-based' framework, programming from a human rights perspective looks at states' ability to meet their obligations, capacity and political will constraints, and citizens' ability to claim and realise their rights and the cultural and social barriers that may exist. Illustrations reviewed for this study include the realisation by DFID in Latin America that inequality and exclusion represented a major barrier for poverty reduction and required tackling in new ways (see Annex 7.2.3).

Better understanding of the context and power relations

Examining the root causes of poverty requires understanding structural factors that perpetuate poverty, such as the roles of elites, abuse of state power or gender discrimination. Agencies are not always comfortable examining such issues explicitly, or do not have the social or political skills to do so; a human rights analysis can enable such an approach (see Box 4.6). A number of studies also point to the limitations of approaches that aim to respond only through legal or institutional change: social norms and values or informal power networks are amongst some of the most difficult challenges faced in the realisation of human rights (and pro-poor development outcomes more generally), as illustrated by the difficulties in achieving gender equality objectives.

Box 4.6: Water rights in Tanzania
In the Kileto District, Tanzania, WaterAid has been implementing a project to improve water access for residents. By integrating human rights principles into the programming process – in particular participation, non-discrimination, equality and empowerment – and including these as explicit programme goals, WaterAid was able to identify the underlying obstacles to equitable access to water. The participatory approach and analysis revealed that power imbalances, lack of land rights and exclusion from national policy decisions had resulted in two of the three main ethnic groups being excluded from access to water. The project was therefore able to work with the communities to overcome the inter-group conflict.

Focus on excluded and marginalised individuals and groups

Agencies have also found human rights programming more effective in the attention it puts on directly tackling disparities. The human rights principles of universality, equality and non-discrimination require that aid programmes pay attention to individuals and groups that may be harder to reach through normal channels and to the institutional, political, economic and social factors that may lead to exclusion and discrimination. This calls for the greater use of disaggregated data (see Box 4.7).

Box 4.7: UNICEF use of new data
UNICEF's review of the implementation of a HRBA provides numerous examples of efforts to reduce disparities and reach the most excluded such as:
- Use of disaggregated data to analyse the situation of women and children to reduce discrimination (Bangladesh).
- Use of school drop-out rates, rather than enrolment, to shift policies and budgets towards adolescent excluded from the education system (Chile).
- Targeting the polio eradication campaign on poor Muslim children under the age of two to reach the last 5-15%. This required specially adapted inclusive strategies, including a new communication strategy to reach the most marginalised families (India).

4.4 Aid effectiveness

From direct service delivery to capacity building

Human rights highlight the importance of states' and citizens' respective capacity to deliver and claim their rights. All too often, aid agencies and INGOs have attempted

to fill in capacity gaps, and deliver services directly, or advocate for policy change in the place of domestic actors. The various case studies of HRBAs, in particular those commissioned by UNICEF, consistently find that such an approach helps donors and NGOs understand the need to move away from direct delivery and work at the level of the overall legal and policy framework, institutions, and programmes. As a result, the approach is also generally considered more sustainable, as it requires capacity to be built beyond donor or NGO interventions (see Annex 7.1.2 on UNICEF).

Holistic or integrated approaches

Linking the principles of interdependence and interrelatedness of all human rights with development programming, a number of studies found that a HRBA, or working to take into account the full spectrum of human rights, had operational implications. It encourages more integrated programming, as opposed to a 'silo' approach, by examining the range of factors that constrain the realisation of particular rights. This includes, for example, linking the lack of security at school with girls' school attendance, rather than the availability or quality of education per se. As a result, collaboration with other agencies within a sector, between different sectors, or across state and civil society actors is often seen as required (see Box 4.8). 36% of Country Offices which responded to a UNICEF survey of the impact of HRBA programming said that they had engaged in multi-sectoral programming as a result.

Box 4.8: The 'justice-chain'
UNDP's Access to Justice Policy focuses on the various stages and capacities needed for citizens to move from grievance to remedy, going through: recognition of a grievance, awareness of rights, claiming, adjudication and enforcement. This allows the justice system to be analysed from the perspective not just of institutions, but also of citizens and the barriers that they need to overcome. As a result, responses may require collaboration across justice institutions; in the Asia-Pacific region, this included working with traditional justice.

Explicitly recognising the political dimensions of aid

An innovative element of a human rights-based approach to poverty reduction is the explicit recognition that, because it involves the attempt to change power relations within society, it is inherently political. Recognising that donors themselves can be political actors raises difficult issues regarding the legitimacy of donor action, the practice of power and lines of accountability. DFID realised these consequences in Peru, which also meant that there was the potential for conflict between DFID and the state (see Box 4.9). While few aid agencies would be able to act in an explicitly political (even if not party-political) manner, a number of studies, including on drivers of change/power analysis, recognise the political dimensions of poverty reduction, and the political role of donors pushing for pro-poor change.

Box 4.9: Political party reform in Peru
In order to start tackling exclusion and inequality, DFID Peru supported reform of the legal and institutional framework but also started working with political parties themselves to help them think more about poverty and how to tackle it. This is clearly a sensitive area for a donor. The *Agora* project involved a series of meetings that brought together militants from a wide range of parties to discuss issues of joint concern about how to strengthen party governance. In doing so, it sought to emphasise inclusiveness by facilitating the participation of all parties in the discussion and encouraging the involvement of local party activists by, for example, holding meetings outside Lima.

Building new partnerships

'One of the major – and by now totally evident – consequences of a rights-based approach to development is that it encourages development actors to identify new partners' (Uvin, 2004:163). Some of the case studies reviewed for this study have indeed confirmed this trend, encouraging donor agencies to work with wider sets of actors (see Box 4.10), often in a facilitative way to support domestic change processes.

Box 4.10: New aid partnerships

Sida's mainstreaming project in **Kenya** is based on working with a network of local partners (government, NGOs and UN), given formal roles as resources persons for its sectoral programmes. It also informs a national process around the Kenya National Human Rights Commission.

Ensuring accountability forced **UNICEF** to forge strategic alliances in **Costa Rica** with the Catholic Church, public universities, chambers of commerce, and political leaders, in order to come up with new social, economic and political proposals. In **Jordan**, in the context of limited material available in Arabic on CRC and CEDAW for legal experts, UNICEF established an agreement with the country's law school resulting in making a course on human rights mandatory for all students as well as courses on CRC and CEDAW.

In **Peru**, the **DFID** country team paid particular attention to cultivating new alliances for change, and nurturing existing networks. For example, it brought together human rights organisations working on civil and political rights with more traditional development and poverty reduction organisations. It supported coalitions between the state and civil society at election times. It also supported networks of health professionals and umbrella bodies to engage with government on health policy.

Reinforcing 'good programming practices'

To some extent, some of the contributions of human rights presented above can be described without using a 'rights language' (e.g. using drivers of change/power analysis rather than human rights analysis). This is the reason behind the UN Common Understanding's distinction between 'unique' and 'essential' elements of a HRBA (see Annex 5), which differentiates between what is found across good programming in general and the specific value of the human rights normative framework.

Why have some agencies preferred to maintain references to human rights? They argue that a foundation in a coherent, normative framework helps to make these good programming approaches non-negotiable, consistent and legitimate. They create the potential to transform some of the more traditional, technical and 'beneficiary-oriented' or 'needs-based' approaches to aid.

4.5 Findings and recommendations

This section has brought together a number of findings or lessons, widely found in the literature, on the strategic use of human rights in development cooperation. These are presented to the Task Team for further discussion and testing as part of the planned action-oriented policy process, as they form the core of the current evidence around the 'value added' of human rights for development.

An important finding is that development agencies have varying degrees to which they ground the integration of human rights in the international human rights framework. Some, such as Sida or the UN, are explicit about the foundation of this

work in international human rights agreements and obligations, whereas others adopt a much more implicit use at the operational level in particular. Ultimately, the integration of human rights into development has to be related to the international framework that is the main source of legitimacy of the approach. This framework continues to evolve, and it would be important for development agencies, partner countries and civil society groups to continue to interact with human rights actors. At the same time, human rights organisations should continue to become more familiar with development concepts and approaches.

The 2005 World Summit recently reaffirmed member states' 'solemn commitment' to 'fulfil their obligations to promote universal respect for and the observance and protection of all human rights and fundamental freedoms for all in accordance with the Charter, the Universal Declaration of Human Rights and other instruments relating to human rights and international law' (para 120) and resolved to strengthen the UN human rights machinery, the OHCHR and the treaty monitoring bodies, further mainstreaming within the UN (paras 123-6) and establishing a Human Rights Council (paras 157-160). **GOVNET members should continue to support initiatives aimed at strengthening the human rights system and mainstreaming human rights within the UN**. **The GOVNET could note the relevance of such interventions for the effective integration of human rights into development.**

Efforts would need to include ensuring that human rights standards and the general comments of the treaty monitoring bodies are well known and used, as well as enhancing the usefulness and relevance for development processes of the recommendations of these bodies (O'Neill, 2004; Alston, 2004). **There is also a need for continued investment in development agencies' own capacity to interact with human rights bodies and organisations, and for 'translation' between the development and human rights communities.** The planned development of an action-oriented policy and guidance within the GOVNET should contribute to greater exchanges between these communities.

5. Challenges and opportunities

The previous sections have illustrated the wide range of policy and programming interventions and contexts within which donor agencies are working on human rights issues, as well as what are usually considered the main benefits of a more strategic approach. This section examines the current challenges in and opportunities for the further integration of human rights in development cooperation. These can be categorised into three broad areas, those that are: internal to aid agencies; shared with national partners; and found across the aid system and aid policies. Each sub-section draws out the challenges faced by aid agencies under a number of themes, and provides illustrations of how they have been overcome.

5.1 Institutionalisation

The main internal challenge faced by aid agencies is one of institutionalisation. For agencies also committed to applying a human rights-based approach internally, this requires a systematic look at the procedures and operations of the agency in order to identify required changes and strengthen staff capacities and incentive structures. For agencies committed to working on human rights in a more selective fashion, such as at the level of projects or in their dialogue, it has also been important to provide guidance to staff on why and how to undertake this work more effectively.

A synthesis of documented experiences, in particular from HURIST, UNICEF, DFID and SDC, along with the interviews conducted for this study and the Sida visit, suggests that the following elements are important for effective institutionalisation: the external environment; senior leadership; staff capacity and incentives; the provision of new tools and guidance and changes to project cycle management; and adapting to working in a more decentralised context.

International and political context

Section 2 reviewed some of the legal and political constraints to integrating human rights. Opportunities created in the post-Cold War international environment included the Vienna (human rights), Beijing (women), Copenhagen (social development) and Durban (racism) conferences. These were reflected in the Millennium Declaration and again reaffirmed in the 2005 World Summit outcome document. Such international statements, and the action plans derived from them, can create strong incentives for agencies to review the extent to which they have put their human rights policies into practice.

Domestic political contexts have also created different opportunities for aid agencies. For example, existing studies point to the domestic commitment to human rights in social-democratic Nordic countries. As is illustrated by Sweden's new policy, 'Shared Responsibility: Sweden's Policy for Global Development', domestic commitments can then be extended into international action, including aid. In the UK, the 1997 elections brought into power politicians committed to both an ethical foreign policy in the Foreign and Commonwealth Office and to paying greater attention to economic and social rights within aid provision (DFID, 1997).

Senior level commitment, accountability and communication

Resistance to policy change is a consistent pattern across agencies. Existing reviews indicate that senior level managers and other 'policy champions' have played a particularly important role in agencies such as UNICEF, Sida and DFID. This has not

been limited to issuing new policies, but also involves taking steps to ensure that appropriate measures are taken to communicate and implement them. Making staff accountable to senior management has been a useful approach (see Box 5.1).

Box 5.1: Senior directives

In 1998, **UNICEF** issued an Executive Directive introducing its HRBA to programming (HRBAP). It assigned responsibilities for dissemination and implementation to heads of offices, regional directors and division directors. The HRBAP was not made a separate thematic area, but rather every staff member and Country Office was given responsibility for implementation. Both the Vietnam case study and the ongoing evaluation of UNICEF's HRBAP strengthening project emphasise the important role played by senior staff in UNICEF's transformation (see Annex 7.1.2).

NZAID has translated ministers' commitments to human rights mainstreaming into an implementation plan. An implementation team, including senior managers, meets monthly to review progress with an obligation to report to ministers after a few years. The implementation plan targets not only strategy, planning and programming, but also organisational capacity and cultural transformation within NZAID, such as: data capture on human rights programming; staff recruitment and training; a process for responding to staff concerns about human rights abuses (within the agency or in partner countries); reviewing contracting procedures; and the agency's communication strategy (see Annex 7.4.5).

Strengthening staff capacities and creating staff incentives

Agencies generally started with little staff expertise when they first adopted and began to implement their human rights policies. To support policy developments and operationalisation, most have created new focal point positions, and some have recruited experts externally. Numbers remain small, with often only one or two persons responsible for human rights and related issues at headquarters, usually located within governance units. Additional strategies have included:
- giving responsibility to a professional cadre with country programming responsibility (e.g. DFID social development advisers);
- a range of training programmes and learning opportunities, brought to the regions and suited to different audiences and levels of expertise, to mainstream expertise across the agency (UNICEF, Sida, Dutch);
- exchanges of information and experiences within agencies (e.g. DFID 'social development retreats' or Sida 'democratic governance' events);
- networking, such as learning from other agencies.

Box 5.2: Capacity building initiatives

NZAID is a new agency. Its human rights policy was the second document issued by senior management. Most staff are newly recruited and have been inducted in the human rights policy. This contrasts with agencies where staff have been in post for longer; are already familiar with existing approaches and frameworks; and are not offered training.

DFID significant policy and programming developments can be credited to its professional network of social development advisers (about 70 out of 2,500) tasked to ensure that a social perspective is applied to all DFID activities, including human rights considerations. Individual advisers have championed the approach in specific projects/programmes, as well as in the development of country strategies or new policy initiatives. By contrast with most other bilateral agencies, governance advisers have often done so explicitly.

Interviews provided many examples of agencies **learning from one another**: Sida found DFID's 2000 Human Rights Target Strategy Paper an inspirational document which helped push forward their own thinking. SDC has made use of developments within the UN system, such as the draft OHCHR PRS and human rights guidelines or the UN Common Understanding, in order to promote internal debate.

Provision of new tools and procedures

The detailed review of the impact of SDC's human rights and rule of law documents illustrates how new policies need to be accompanied by practical advice to facilitate implementation (Piron and Court, 2003). UNICEF and Sida report that staff are now familiar with a HRBA at a conceptual level, but want concrete tools and examples of added value. Agencies have issued a great deal of guidance documents. Some mainstreaming tools are sector specific (e.g. health, education) or thematic (e.g. children). Others assist in country analysis and objective setting (e.g. Sida's 'guide for country analysis from a democratic governance and human rights perspective').

Changes to project cycle management (PCM) procedures have been introduced in several agencies to facilitate the systematic integration of human rights at all levels of design, implementation, monitoring and evaluation, with regards to both regional/country strategies and programmes/projects. In some cases, these have been compulsory; within the UN system, UNICEF and CCA/UNDAF reviews show the impact this mandatory approach is having on country strategies and activities (see Box 5.3).

Box 5.3: HRBA to UN country assessment and programming
The UN system has integrated a HRBA into the guidelines to prepare Common Country Assessments and UN Development Assistance Frameworks. A recent review for OHCHR by O'Neill (2004) showed that there was increasing evidence of commitment to HRBA with a willingness to put it into practice. Most CCA/UNDAFs now: explicitly state that human rights forms the basis of their analysis and programmes; contain a more sophisticated analysis of the root causes of poverty; have a more sophisticated approach to advocacy; document data inadequacies in identifying discrimination and inequities; and are more thorough and provide greater clarity in relation to capacity analyses of both duty-bearers and rights-holders. He also concluded that more could be done to systematically use the findings of the UN human rights system and translate them into programming priorities (see Annex 7.4.1).

Agencies seem to have made the most changes at the level of strategy and programme appraisal and design. New approaches have included:
- *Human rights situation analysis* to inform the development of country strategies by identifying national human rights constraints, weaknesses and opportunities to strengthen capacities of both state and non-state actors (e.g. DFID Peru identification of exclusion and inequality as a major constraint to poverty reduction; Sida guide; UNICEF guidelines. See Annex 7.1.)
- *Bridging analysis*, which starts from a country's existing international, regional and constitutional human rights obligations and identifies gaps in legislative frameworks, policies and programmes; also, measures recommended by the human rights system to fill these gaps in order to identify programming priorities (e.g. UNIFEM Tadjikistan, see Annex 7.3.4).
- *Participatory approaches* used at all stages (e.g. DFID 'participatory rights assessments methodologies' or the joint UNDP-OHCHR rights-based municipal assessment and planning project in Bosnia-Herzegovina).

One of the basic human rights principles as applied to PCM is the 'do no harm policy'. For example, Sida's summary of its updated policy framework includes the minimum requirement that a programme should not negatively impact on human rights (Sida 2005a). However, there seem to be few approaches to monitoring this, in particular at the level of the implementation of donor-funded activities. Examples could be through *codes of conduct* for agency staff and project implementers or *complaint or redress mechanisms* accessible to beneficiaries so that they can hold agencies to account. Exceptions, in the humanitarian field, include the Sphere

Project and Humanitarian Ombudsman. The revised code of conduct for international civil servants references human rights as a fundamental value; many donors have human resources policies which aim to improve staff diversity and gender equality. These do not, however, deal with the direct accountability of staff to the public or the impact of donor activities on beneficiaries.

The March 2005 HURIST lesson-learning workshop recommended paying attention to setting up mechanisms at the national level to keep pressure on UNDP to implement its HRBA following the carrying out of rights-based country reviews, as was piloted in HURIST in Kenya with indigenous peoples. Donor agencies would be in a position to support national constituencies (e.g. in civil society and including partner governments) to hold them to account for implementing their human rights policies, creating a momentum to improve collective performance.

Human rights monitoring and evaluation seems to be a weakness across most agencies and at all stages in the programming cycle. This applies to human rights projects, mainstreaming efforts, and dialogue initiatives, as well as to country programme impacts and the overall institutionalisation of human rights policies within agencies. For example, at the level of projects/country programmes, NORAD has developed a Human Rights Impact Assessment Tool but this does not appear to have been systematically used. Human rights indicators are being developed to assess overall country performance and influence aid allocations (see Section 5.3) but these remain controversial. The Metagora project, based in OECD DAC – Paris 21 is developing promising national-level methodologies, combining statistical data and traditional qualitative human rights approaches, which could improve human rights impact monitoring at a country (as opposed to project) level. The area of human rights indicators, monitoring and evaluation requires more in-depth review than was possible in this study.

Adapting to a decentralised context

The increasing decentralisation of most aid agencies, which permits closer interaction with national partners and country-based aid coordination, poses a challenge to the institutionalisation of human rights and other policies. These have tended to be developed at headquarters and need to be applied in specific country contexts. As illustrated in the SDC and DFID reviews, decentralisation has enabled some Country Offices to experiment with a HRBA even when central policies and procedural changes lagged behind. Strategies have included:
- ensuring field representation in the development of human rights policies and guidance (e.g. SDC consultation process);
- decentralising expertise to Country Offices (e.g. Sida's regional democracy and human rights advisors; DFID's social development advisers) or including human rights in the TORs for a wider range of field positions (e.g. UNIFEM);
- providing HQ advice to targeted country programmes (e.g. HURIST reviews of UNDP country programmes);
- establishing regionally based, multi-agency 'communities of practice' to share lessons about human rights in a region/country relevant way (e.g. OHCHR Lessons-Learned Project on HRBA in the Asia-Pacific region or UNDP's lesson learning work on Rights and Justice in the same region);
- including questions about progress on human rights programming in annual planning instructions and Country Office reports (e.g. UNICEF annual reviews);
- facilitating and documenting country-level piloting of new approaches to feed into institutional learning (e.g. DFID PRAMs initiatives in Peru and Malawi);

- experimenting and documenting the application of a HRBA across a full country programme (e.g. UNICEF case studies; Sida Kenya programme; DFID Peru, Bolivia and Brazil programmes).

Box 5.4: HURIST Human Rights Country Reviews
HURIST has facilitated 14 human rights based UNDP country programme reviews. The aim is not to rate individual country programmes, but to help identify areas for strengthening and share best practices. A check-list has been developed and the methodology has been applied well beyond the envisaged 5 pilots. This initiative has helped involve country offices in UNDP's mainstreaming process and gained institutional support from regional bureaux. In some cases, a HURIST review mission was the first event where human rights were firmly put on the agenda of a UNDP country office. The last reviews capitalised on the staff capacity building opportunities the process created. Programming benefits have included, for example, encouraging country offices to pay greater attention to participation and vulnerable groups.

5.2 National development partners

Integrating human rights into development assistance is not simply a technical matter which can be resolved by adequate training or better adapted tools and procedures. In some contexts, aid agencies have found engagement with partner governments around human rights issues particularly difficult because they make explicit the political dimensions of poverty reduction, or because of weak capacity.

There are two overarching challenges facing the GOVNET at this level: the need to clearly understand and explicitly address the links between fragile states and human rights; and reconciling human rights with the national ownership and leadership of strategies on which aid is increasingly based.

Box 5.5: Contextual constraints faced by UNICEF staff
The most recent UNICEF progress review identifies a number of contextual challenges faced by staff implementing a HRBA. Constraints include the operations of government structures in partner countries, in particular when they operate in a highly centralised manner, with limited public accountability. Some country contexts present greater challenges, such as war-torn societies, widespread poverty or extremely weak capacity, where basic survival or institution building is seen as a priority. There can also be open political resistance to human rights, for example in the context of sharp ethnic divisions where collecting disaggregated data or providing education in native languages is not politically acceptable. Resistance to human rights goes beyond governments and can include social norms and values, such as opposition to child and adolescent participation and a preference for seeing aid as charity.

Human rights and fragile states

The TORs for this study are limited to development cooperation and do not cover violent conflicts or humanitarian assistance. However, donors have become more aware that they need to find better ways of engaging in 'difficult environments' or 'fragile states', defined by the DAC as 'countries where there is a lack of political commitment and/or weak capacity to develop and implement pro-poor policies, suffering from violent conflict and/or weak governance' (DAC, 2005:2).

Interviews and the document review have suggested that the theoretical and practical links between human rights and fragile states are presently underdeveloped. For example, the DAC principles for good international agreement in fragile states, which are being piloted in 10 countries, make no references to human rights. Few agencies have developed policy statements or strategies in these areas; when they have, human rights are not given much prominence. There is, however, an implicit human

rights justification behind this agenda: the systematic denial of the full range of human rights in such situations requires a broader aid response.

Overcoming weak capacity to implement human rights

Weak capacity to realise human rights can result from a range of factors, such as limited resources to meet 'minimum standards' or ignorance of human rights duties and claims. The positive approaches examined in Section 3, and the key role given to 'capacity building' of rights-holders and duty-bearers in the UN common understanding on HRBA are the strategies most commonly adopted to overcome this.

In weak or fragile states, the role of human rights may sometimes need to be different, helping to identify what is required for effective nation/state building. The challenge is that there may be no or such limited state capacity that some human rights obligations may not be realistic: for example, holding to account states for meeting even the most basic obligations, such as maintaining security or providing access to services. A human rights perspective would highlight how to move progressively to a situation where states can meet their basic obligations, creating the basis of a stronger social contract between rulers and ruled. This approach is fully consistent with the current focus of the DAC fragile state approach which prioritises: state core functions (basic security, justice, economic and service delivery functions); legitimacy and accountability; and the creation of an enabling environment (DAC, 2005).

Overcoming political resistance to human rights

The most common challenge faced by aid agencies has been the reluctance to engage in human rights programming or dialogue because of the fear of rejection of the human rights agenda by official partners, for example on the grounds of political interference in domestic sovereignty or cultural relativism. The recent UN World Summit outcome document is useful here: it reaffirms the universality of human rights and commits member states to 'to integrate the promotion and protection of human rights into national policies' (UN, 2005b: para 126).

Strategies to overcome political resistance reviewed in this study have included progressive engagement (UNICEF in Vietnam), bypassing state actors (European Initiative for Democracy and Human Rights), the use of dialogue, and the possibility of applying conditionalities, such as sanction and aid suspension. Case studies of DFID and Sida in Peru and Kenya suggest that opportunities for engagement are greater in certain regimes and at certain political times, although resistance will also be found at other levels in government and society, such as in terms of unequal gender relations.

When state fragility is more clearly linked to a lack of will than capacity, human rights continue to have a role to play in donor engagement, and have in fact been used. They can provide a tool of analysis to understand power relations and state capacity issues behind this lack of will. They offer an entry point for dialogue based on an international, rather than bilateral, approach. Special human rights procedures can be used as part of fact-finding and guiding an international response (e.g. human rights missions ignored prior to the 1994 genocide in Rwanda). When the political environment permits, HRBA to aid can support social change processes to demand more effective and accountable states, or focus on the core rights required for change (e.g. freedom of expression/association or move to more equitable services).

National ownership of the human rights agenda

Finally, a common resistance to human rights on the part of national partners has been the challenge that human rights are an externally imposed agenda. This would seem to conflict with the principle of national ownership, whereby partner countries exercise effective leadership over their development policies and strategies and coordinate development actions. Responses in the main have been twofold. First, the starting point has been to refer to nationally entrenched fundamental rights in constitutions and domestic legal standards, as well as the freely entered into international human rights obligations. These are the existing commitments of partner states that aid can help better meet.

Secondly, donors have paid attention to supporting national actors' participation in Poverty Reduction Strategy processes, allowing wider constituencies to engage and supporting domestic accountability. In Uganda, for example, DFID has funded participatory processes, including a focus on pastoralist communities; UNDP has supported the Uganda Human Rights Commission in policy debates; and a CSO coalition has advocated for a rights-based approach to the Poverty Eradication Action Plan revisions, leading to greater emphasis on equity considerations. More lessons about the integration of human rights in PRSs may result from ongoing research on poverty and human rights by the Geneva-based International Council on Human Rights Policy. Lessons may also be able to be learnt from current OHCHR efforts, such as the application of the guidelines on human rights and PRSs and the piloting of the approach by HURIST in a limited set of countries.

5.3 Aid policies and modalities

Finally, aid agencies working on human rights issues face the challenge of integrating human rights into their joint aid policies. Issues reviewed here include: the Millennium Development Goals (MDGs), aid allocations and modalities, policy coherence and other elements of the Paris Declaration agenda.[1] Given the prominent role played by the DAC in advancing these debates, it would make sense for the GOVNET Task Team members to advance this particular agenda in this context.

Millennium Development Goals

Poverty reduction and the MDGs are now at the centre of most agencies' policies and strategies; progress on achieving the MDGs is being used to plan and monitor agencies' overall performance. The 2000 Millennium Declaration makes an explicit reference to human rights, but the MDGs themselves are not identical to the existing human rights framework. For a number of agencies, the MDGs and human rights are fully compatible frameworks given that the MDGs are derived from the UN conferences of the 1990s, which included human rights and social development objectives. Some commentators consider this approach too narrow: the MDGs are seen to fall short of the human rights agenda: they identify a more limited set of obligations; ignore civil and political rights; and can be achieved at the expense of making equal progress on reaching the most vulnerable and excluded groups.

Alston's (2004) examination of a human rights perspective on the MDGs provides a detailed review of the debates and a number of practical recommendations to

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[1] The March 2005 DAC High Level Forum Paris Declaration on aid effectiveness sets a number of partnership commitments and progress indicators covering: ownership, alignment, harmonisation, results orientation and mutual accountability.

enhance synergies and commonalities. Our research has indicated broadly three ways in which agencies have responded to these challenges to-date by:

- linking the MDGs to specific human rights and indicators (see Box 5.7);
- highlighting the Millennium Declaration in their policy statements and not just the MDGs, so as to keep the full range of human rights standards and principles to the fore in the rationale for policies and programmes (for example, SDC has highlighted its contribution to human rights in Switzerland's national report for the Millennium Summit (Swiss Federal Council, 2005);
- illustrating how a HRBA to meeting the MDGs can be adopted (for example, DFID has developed a tool to promote a HRBA to maternal mortality. Its social exclusion policy is also phrased in terms of ensuring that an approach based on the MDGs does not miss out on excluded individuals and groups.)

Box: 5.6: Linking MDGs and human rights indicators

As a cross-cutting concern for the achievement of all the MDGs, gender equality is not well reflected in the global targets and indicators. CEDAW and the Beijing Platform for Action set further-reaching obligations. In cooperation with BMZ and GTZ, UNIFEM has developed a tool to show how the MDGs can be used as a vehicle for Beijing and CEDAW implementation at the national level. In 'Pathway to Gender Equality', each goal is accompanied by an analysis of the gender issues it raises and an identification of CEDAW and Beijing commitments to inform national MDG reporting and implementation strategies.

The UN Rapporteur on the Right to Health is working to develop right to health indicators covering structural factors, processes and outcomes, and linking human rights norms to duty-bearers and the principle of non-discrimination, which requires disaggregated data. This will provide a broader framework to monitor not only progress in meeting the health MDGs but also the right to health, including dimensions ignored in the MDGs, such as mental health.

Alignment and harmonisation

Alignment refers to donor commitments to base overall support on partner countries' national development strategies, institutions and procedures. It requires national capacity development, in particular in the areas of public financial management and procurement, as well as increased use of state systems on the part of donors. Harmonisation requires donor actions to utilise common arrangements, simplified procedures, a more effective division of labour, more collaborative behaviour and greater transparency.

The literature on alignment and harmonisation makes little reference to human rights. The Paris Declaration, however, does encourage donors to harmonise their approaches to cross-cutting issues. Human rights, given their role in states' domestic legal and policy frameworks, play a part in setting national development priorities, which donors can assist in implementing. In addition, there is a strong congruence between, on the one hand, building partners' capacity and ensuring that aid does not undermine national capacities and, on the other, the fundamental principle that states are the main duty-bearers and that aid can be used to assist them in meeting their human rights obligations.

There is room for further work on the part of donor agencies on how to integrate human rights better in these debates. However, there are a number of examples, showing that the capacity building prioritised under this aid agenda can be undertaken from a HRBA (see Box 5.7). In addition, greater collaboration and transparency can be applied to human rights work, whether in projects or dialogue.

> **Box 5.7: Public expenditure and rights programming**
> **UNICEF** and **UNIFEM** have supported a number of initiatives to develop capacity for budget preparation and monitoring from a rights perspective, for example through gender or children's budgets, bringing together Ministries of Finance and social movements.
>
> **DFID** has been supporting the Uganda Debt Network in its monitoring of the Poverty Action Fund, through which a significant amount of donor resources is being channelled to local levels. In Peru, DFID-supported taxation reform has been linked to citizens' rights and duties.

Aid allocations and aid modalities

Assessments of whether human rights are being met, and the kind of additional resources needed to allow partner governments to better respect, protect and fulfil human rights are already informing aid allocation decisions. This is a sensitive area, as it is closely related to the application of political conditionality and the withholding or suspension of aid in certain circumstances (see Section 3.3). Some agencies are using public sets of human rights and governance indicators in order to identify and rewards 'good performance' (see Box 5.8).

> **Box 5.8: The US Millennium Challenge Account**
> The US Millennium Challenge Corporation aims not to use US political or foreign policy objectives in order to select beneficiary countries. It first identifies a set of countries based on their per capita income. It then uses 16 indicators in three categories (ruling justly; economic freedom; and investing in people) to measure countries against each other. It explicitly uses governance indicators and draws on the six dimensions of the World Bank Institute's database, which itself uses a range of human rights indicators. Countries then become eligible to submit proposals for Millennium Challenge Account funding. The Board can exercise discretion in the selection process, to consider data weaknesses or additional qualitative information or if a country performs substantially badly on any indicator. The Center for Global Development, a US think tank which monitors the Millennium Challenge Account, has raised many questions with regards to the use of discretion, suggesting that some countries were selected on political grounds rather than sound policies.

Section 3 has illustrated how, traditionally, human rights have been addressed through stand-alone projects, or are now being mainstreamed in sector programmes. A number of agencies interviewed expressed a concern that, in the current shift to programme aid modalities, such as general budget support or sector-wide approaches, a focus on human rights is being lost. Some agencies are, for example, cutting down on non-programme aid interventions, such as support to civil society organisations or grassroots activities, as these are perceived as more difficult to design and manage. Yet, they are considered a central element of integrating human rights into development cooperation, by supporting the ability of rights-holders to become aware, claim and enforce their rights.

Agencies are currently responding to this challenge. For example, the German KfW has commissioned a study and portfolio analysis of the relevance of HRBA for financial cooperation. Some agencies have already developed tools to ground their choice of aid modalities, based on country analysis including human rights and governance (see Box 5.9). Research is suggesting that 'a mix of aid instruments' is desirable in support of social exclusion initiatives (Curran and Booth, 2005). Programme aid needs to be seen in the context of appropriate policy dialogue, technical advice and capacity building support to enable governments to identify and implement their national priorities. Finally, and as recognised in statements on aid alignment and harmonisation, both donors and governments need to build more effective accountability mechanisms, which is also a channel for integrating human rights into aid initiatives.

> **Box 5.9: The Netherlands' track record framework**
> This is an assessment framework used to determine what level of alignment is feasible in a partner country and whether the aid modalities that a mission wants to deploy satisfy the criteria that correspond to this level of alignment. It is an obligatory context analysis in the annual plan, linked to the Netherlands multi-annual planning and reporting to Parliament. The track record contains the conclusions and ratings of the different underlying policy areas and expresses the view of the country mission as a whole (development cooperation, economy and trade, policy and financial management). Human rights are covered under Category C2, 'Basic conditions for good governance', and the World Bank Institute governance indicators are used. Depending on the final score, an aid modality is chosen, ranging between full alignment (in the form of general budget support) and no alignment (project support).

Results-based management

The Paris Declaration includes a commitment to manage and implement aid in a way that focuses on the desired results and uses information to improve decision making. The literature on results-based aid management rarely touches upon the role of human rights in conceptualising and achieving results. This may owe to a perception that human rights give attention to processes, qualitative measures and normative standards which are not fully consistent with a focus on measurable outcomes. For example, agencies such as UNICEF have found that the lack of disaggregated data has constrained their ability to target and monitor progress with regards to equality and non-discrimination.

A number of agencies have, however, worked to integrate human rights within their results-based management frameworks (see Box 5.10). There have been attempts to use national and international reporting on human rights commitments as part of country performance assessment frameworks, as well as investments in obtaining disaggregated data or tracking qualitative impacts, and a focus on structures and processes as well as outcomes (e.g. Special Rapporteur on Right to Health).

> **Box 5.10: UNIFEM's HRBA to results-based management**
> UNIFEM has recently issued a guide, supported by training modules, on how to measure results from a human rights perspective. Its Multi-Year Funding Framework sets four rights-based goals: reduce feminised poverty and exclusion; end violence against women; halt and reverse the spread of HIV/AIDS amongst women and girls; and achieve gender equality in democratic governance in times of peace and in recovery from war. The guide includes recommendations on how to measure progress with building the capacity of duty-bearers and rights-holders; using CEDAW as the source of indicators; and adopting a participatory approach to planning and reporting (see Annex 7.4.4).

Mutual accountability

Mutual accountability refers to the individual and joint accountability of donors and partner governments to their citizens and parliaments for their development policies, strategies and performance. The Paris Declaration requires that this accountability be based on: partner governments using participatory processes to develop and monitor national strategies and involve their parliaments; donors providing transparent information on aid flows to promote public accountability; and both parties jointly assessing progress in meeting aid effectiveness commitments. These mutual accountability principles are fully compatible with the human rights principles of accountability and transparency, which require access to information as well as participation in decision making.

Human rights norms and standards can explicitly be part of this mutual accountability framework. This requires not only that partner governments demonstrate the

progress they are making in implementing their human rights commitments but also that donors be held accountable for their contribution to the realisation of human rights in partner countries. The review of existing policies and practice suggests that, at present:

- there are several examples of agencies being explicit about putting human rights as shared values underpinning their aid partnerships (e.g. Finland, Netherlands, Sida, DFID, UN system);
- there are disagreements regarding the extent to which the international human rights framework requires donors to be legally accountable for their human rights impacts, but the ethical or political implications are clear;
- DAC peer reviews or mutual accountability discussions do not appear to have included explicit references to human rights commitments of donors and partners.

Box: 5.11 Human rights and mutual accountability: DFID's experience

DFID's new policy on conditionality (DFID, 2005c) mentions both that human rights commitments form the basis of the aid partnership and also that significant human rights violations can be used as a justification to suspend aid. It is the latter aspect which is causing the most discussion, whereas the former would require a different approach to programming and dialogue. The Memorandum of Understanding with Rwanda is one example of a mutual accountability framework. Rwanda has signed four MoUs (with the UK, the Netherlands, Sweden and Switzerland). The UK MoU includes references to human rights as a shared commitment of the UK and Rwanda; a wider set of commitments on the part of the UK than other donor governments (to meet aid effectiveness principles); and explicit references to the government of Rwanda's human rights commitments. The methodology for assessing whether the MoU commitments have been met (usually based on annual independent reports rather than self reviews by governments) and the feedback loop into actual aid agreements are, however, relatively weak.

Policy coherence

The integration of human rights within development assistance is consistent with the need for donors to improve the coherence of their aid with their other policies, an issue already firmly on the DAC agenda. Indeed, human rights have traditionally been part of foreign policy, and in a number of countries reviewed, Ministries of Foreign Affairs have the overall lead on human rights. Initiatives to use aid in pursuance of human rights objectives, and to ensure that aid does not contribute to human rights violations overseas, are one way of promoting policy coherence. The coherence challenge has been easier to overcome for agencies already working closely with the Ministries of Foreign Affairs or when they are integrated (see Box 5.12). Other agencies have been developing closer relationships and have started to work more strategically with Ministries of Defence, Trade or Interior. The Austrian Development Agency, for example, has recently organised a training workshop on the protection of children's rights in emergency situations with the Austrian Ministries of Defence and Foreign Affairs.

5.4 Findings and recommendations

Donors face three main sets of challenges with regards to the further strategic integration of human rights: institutionalising the approach internally within agencies; working on human rights issues positively with partner governments, in particular in fragile states; and making sure that human rights remain part of the current agenda around aid effectiveness and new aid modalities.

With regards to the **institutionalisation of human rights policies**, Task Team members could, either within the GOVNET context or more informally:
- *Regularly share* existing tools, guidance documents and undertake joint training, rather than investing in them separately.
- Establish a mechanism to enable agencies to learn more systematically from one another, by serving as a knowledge management (and possibly advisory) centre for interested agencies. A dedicated *resource centre* could create and maintain databases of documents, tools, experiences and act as a hub for further exchanges as well as learning opportunities (e.g. Utstein Anti-Corruption Centre or DFID's Governance Resource Centre).
- Identify and document examples of '*do no harm' policies*, possibly including past negative impacts and how they can be overcome to demonstrate one of the most visible values of the approach.
- Invest in identifying useable *human rights indicators* to: measure the impact of human rights projects and mainstreaming initiatives; serve as baselines and indicators at a country level; and inform aid allocation and aid modality decisions. This work should build on existing initiatives (e.g. Metagora, World Bank Institute, OHCHR, etc.) and aim to document experiences with a view to informing a DAC position.

With regards to working with **national and international partners**:
- In order to further promote human rights as part of nationally owned strategies, the GOVNET initiative should plan how it can involve a wider constituency beyond bilateral and multilateral agencies. Following the planned October workshop, a wider consultative process could be envisaged. To build wide ownership and draw on considerable country-based on NGO experiences, it would need to include:
  - partner governments
  - parliamentarians, such as parliamentary human rights committees
  - national human rights institutions
  - national civil society organisations
  - international NGOs

With regards to **aid policies and modalities**, the GOVNET could:

- Document existing approaches to using human rights to *inform decisions on aid allocations and modalities* in a way that is not reduced to the use of selectivity and conditionality and which goes beyond project-based aid. There is much potential cross-fertilisation with the fragile states agenda here.
- Respond to *Paragraph 42 of the Paris Declaration* on Aid Effectiveness which encourages donors to harmonise on cross-cutting issues. This could serve as a high-level entry point for donors to work towards harmonising their approaches to human rights.
- The implementation of human rights policies could be systematically examined in the *DAC mutual reviews* so as to encourage the application of existing commitments and share good experiences.
- In order to promote the use of human rights on both sides of 'mutual accountability frameworks', the *human rights obligations of donor governments and multilateral agencies* could be further examined, as well as the impact of donor assistance on the realisation of human rights in partner countries.
- Experiences of donors which explicitly include human rights in such frameworks could be documented and shared to promote good practice.

In order to revisit current approaches to conditionality, GOVNET could discuss the following **set of principles for the design and application of conditionality**.

- Establish clear aims and objectives and transparent purpose with regards to dialogue and conditionality, so as to be consistent with predictability and partnership commitments.
- As far as possible, use conditions found in existing partner governments' commitments, such as constitutions, PRSs and other national frameworks, as well as the relevant international and regional human rights instruments.
- Improve the understanding of partner countries' political trajectories and how internal forces may respond to external pressures.
- Prefer coordinated donor action, preferably using multilateral channels, for consistency of message and likelihood of impact.
- Invest in the nature and quality of the dialogue process, and balance positive incentives ('carrots') rather than focusing solely on 'sticks'.
- Maintain minimum 'bottom lines' to allow principled actions by donors if all else fails, based on public commitments set in overall aid agreements.

With regards to **fragile states**, members of the Task Team could, either in the DAC context or within their own agencies, explore ways in which human rights can be more explicitly linked to this agenda, drawing out similarities with existing human rights initiatives. Suggestions, starting with the current DAC initiatives and the 10 principles for engagement, include:

- using human rights analysis as part of 'understanding the context' and in adopting a 'prevention mode' by focusing on the root causes of state fragility;
- understanding the fragile states 'do no harm' principle as applying not just to state capacity but also to the fundamental rights of the populations;
- using human rights commitment as a way of identifying 'national reformers';
- considering civilian protection as the entry point to addressing human rights in violent conflict and humanitarian crises;
- using human security in relation to fragile states and security agendas, as it integrates a focus on human dimensions and therefore human rights;
- exploring the human rights duties of the international community in such situations, such as arguments surrounding 'the responsibility to protect';

- better understanding the tensions between human rights, conflict resolution and humanitarian assistance so as to promote a consistent approach (this could build on planned work by Sida comparing conflict and human rights which will be shared with the DAC Conflict Network in February 2006).

In order to promote more harmonised approaches, Task Team members might wish to **pilot human rights programming**, including policy dialogue, in a selected number of countries, for example where UN and bilateral agencies have made most progress. This could range from collaborating more closely on ongoing initiatives, and documenting joint work, to a more ambitious approach where new work could be undertaken with a GOVNET mandate in the context of enhanced harmonisation of towards human rights at country level:
- selected countries in the Asia-Pacific region where the UN system has made progress and where bilaterals have a presence;
- Kenya, where Sida is piloting its mainstreaming, or other countries in Africa where bilaterals and the UN may be active;
- Latin America (e.g. Bolivia, Peru), where non-discrimination/exclusion work is already well advanced;
- places where other agencies, such as the Dutch, GZT or HURIST are also piloting human rights initiatives.

6. Mains findings and recommendations

6.1 Main findings

There are a number of key messages for the Task Team which emerge from this study and should inform future GOVNET and DAC action. The study has in particular confirmed that there is a clear gap in the DAC's policy processes and documentation, with no substantive work on human rights since the late 1990s. This does not reflect the reality of agencies' current work. This initiative is therefore highly relevant for the DAC as a whole given the cross-cutting nature of human rights. It also has meaning beyond the DAC, given the value of bringing together representatives across such a large number of bilateral and multilateral agencies with a common purpose.

The study has identified a significant number of new policies, as well as accompanying tools, guidance documents and programming experiences. This demonstrates that work on human rights has not been limited to policy pronouncements but has also started to impact on practice. Policies and activities can be found across a wide range of agencies, from bilaterals to multilaterals, as well as a multitude of civil society and INGOs interventions that are not documented here. Human rights are therefore not limited to a handful of agencies, but are instead becoming a regular feature of development cooperation. This is not a static field: conferences, evaluations, stocktaking exercises and training workshops are ongoing.

Commonalities across agencies include:
- the focus on positive approaches;
- the tendency to (still) see human rights through a governance lens;
- growing efforts to mainstream human rights in other sectors;
- continued difficulties with human rights dialogues and conditionality;
- attempts to use human rights strategically at a wide range of levels.

Differences, based on the rationales adopted by agencies, and the extent to which they feel they can associate directly with the international human rights framework, have led to what may be described as a five-part typology, ranging from human rights-based approaches (towards which the UN and a number of bilaterals are moving) to human rights projects and 'implicit' approaches.

Weaknesses, for the purpose of this study, have included the degree to which agencies have internally invested in documenting and learning from their own experiences, though there is documentation which could be further probed and some agencies have been particularly good in this area.

The study has identified three broad challenges to which the Task Team needs to respond. The GOVNET process creates opportunities to deepen institutionalisation within agencies by creating an inter-agency momentum and possibilities for collaboration beyond the DAC. It needs to engage creatively with national partners who may have limited capacity or commitment to deliver on their human rights obligations. And, by engaging with the DAC aid effectiveness initiatives, it can break new grounds in the under-developed domain of new aid policies and aid modalities.

These findings present a potentially large agenda for action. It will be important for the Task Team to prioritise which steps it should take within the GOVNET and DAC context. The next sub-section identifies ten priority areas for action, drawing on the longer and more detailed recommendations which have been put forward in the study.

6.2 Main recommendations

The GOVNET Human Rights and Development Task Team has started an important initiative. It offers the possibility of updating DAC statements related to human rights and of undertaking joint actions with a view to developing guidance based on good practice. In addition, it can explore areas which have been left under-examined to date. On the basis of these findings, this study offers the following recommendations to guide the work of the GOVNET Human Rights and Development Task Team.

1. Map out a process. The study has identified a number of commonalities across agencies. Given remaining differences in approaches and experiences to-date, this study, the October 2005 workshop and 2006 action-oriented policy, should be seen as the first in a series of steps, with a view to the more systematic, strategic and harmonised integration of human rights into development cooperation. This could encompass an updated policy document, as well as efforts to deepen learning based on current initiatives, to examine new areas, to undertake joint practical actions and to prepare practical guidance at a later stage.

2. Involve a wider constituency. In order to further promote human rights as part of nationally-owned development strategies, the GOVNET initiative should involve a wider constituency of actors beyond bilateral and multilateral agencies. Following the October 2005 workshop, a wider consultative process should be envisaged with national government partners and civil society actors, nationally and internationally.

3. Update DAC policy statements. There is a need to update existing DAC statements so as to better reflect current knowledge and consensus on the integration of human rights into development and to promote good practice.

4. Invest in internal lesson learning. The GOVNET initiative should catalyse agencies into investing to a greater extent in documenting existing experiences and improving internal lesson learning on human rights in order to inform their own policy development and practices, and form the basis for harmonised policies and approaches.

5. Undertake joint learning initiatives. There are a number of specific issues for joint research and analysis which the Task Team should prioritise as part of its action-oriented policy and guidance preparation, concentrating on fewer agencies or narrower themes than in the present study.
- A study of a governance sub-area where there has been a demonstrated policy and programming shift as a result of the strategic use of human rights.
- A study of achievements and impacts within a small set of identical non-governance sectors or themes.
- A study on human rights dialogue and the impact of conditionality.
- A study identifying and documenting good examples of 'do no harm' policies and associated mechanisms to monitor the human rights impact of agencies.

6. Plan and undertake joint pilots. Members of the Task Team could agree to undertake a number of joint piloting initiatives at a country or regional level in order to harmonise their approaches in the field and 'learn by doing'. This could include:
- Collaborating more closely in ongoing programming initiatives (projects/ mainstreaming) where a multilateral or bilateral is already well advanced.
- Undertaking and documenting joint dialogue efforts.
- With a GOVNET mandate, piloting new harmonised approaches to human rights.

7. Engage in aid effectiveness debates. The preparation of a DAC policy statement and guidance on the strategic integration of human rights for development would benefit from consultation with other DAC bodies, such as the poverty network and the gender network. However, on the basis of this study's findings, we recommend that priority be given to joint action with the Working Party on Aid Effectiveness and Donor Practices, thus responding to paragraph 42 of the Paris Declaration on Aid Effectiveness which encourages donors to harmonise on cross-cutting issues. A key objective would be to address the relevance of human rights in new aid modalities and revisit current approaches to political conditionality, for example agreeing a set of good practice principles.

8. Collaborate on fragile states. The DAC Learning and Advisory Process on Difficult Partnerships has facilitated collaboration between GOVNET and the DAC Network on Conflict, Peace and Development. The priority here would be to understand the reasons for the relative absence of human rights from the current fragile states agenda and DAC piloting exercise, and demonstrate where and how human rights could be made explicit and relevant. There is already work on human rights and conflict within the DAC Conflict Network, which could serve as an entry point for joint exploration of some of these issues.

9. Collaborate across GOVNET themes. The apparent failure to have applied a human rights perspective to wider aspects of the governance agenda suggests that there could be a reflection on the other themes currently prioritised within GOVNET. Comparing the findings of the drivers of change/power analysis study with the present one could offer practical lessons on the relationship between political economy and human rights analyses. Other issues which could be examined at a later date include: applying lessons from the capacity development work to human rights; understanding how, given their joint concern for the rule of law, human rights and anti-corruption initiatives can strengthen one another; or connecting work on governance indicators with debates on human rights indicators.

10. Continue to collaborate beyond the DAC. Finally, there are a number of other areas where the members of the Task Team should continue to collaborate beyond this ongoing DAC GOVNET initiative. The priorities here are:
- Establish a mechanism to enable agencies to learn more systematically from one another and wider national or international efforts on human rights and development, such as through a **dedicated resource centre**.
- Continue to fund and coordinate initiatives aimed at **strengthening the human rights system** and mainstreaming human rights within the UN.
- Continue to invest in initiatives that facilitate exchanges and 'translation' **between the development and human rights communities**.