Aid effectiveness and human rights: strengthening the implementation of the Paris Declaration

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Think Piece 1: Ownership
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Think Piece 2: Alignment
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Think Piece 3: Harmonisation
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Think Piece 4: Managing for Results
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Think Piece 5: Mutual Accountability
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Contents

This publication is based on a project commissioned by the OECD-DAC Network on Governance (GOVNET) which explored the possible synergies between human rights and the aid effectiveness agenda set out in the Paris Declaration on Aid Effectiveness (PD). The views expressed are those of the authors.

The overall purpose of the project was to contribute to developing a human rights perspective on aid effectiveness, with the objective of progressively contributing to:

i)   the effective implementation of the PD;
ii)   the continuing evolution of aid effectiveness thinking; and
iii)   OECD-DAC future strategies and policies in these two fields.

More generally, the project aimed to instigate a process of structured reflection and innovative dialogue on the potential for positive interaction between different important lines of development thinking – by the respective expert communities – which have so far evolved separately.

A Framework Paper and five Think Pieces analyse the specific practical contribution that human rights thinking and practice can bring to each of the partnership commitments of the PD (Ownership, Harmonisation, Alignment, Managing for Results, and Mutual Accountability).

Executive Summary[1]

1. Background

Changes to the international development context, and an agenda of ambitious reforms in the international aid system, are presenting new challenges for the integration of human rights into development. Donors and partner governments alike are increasingly focused on improving aid effectiveness, including in fragile states. This has the potential to open up opportunities to advance human rights – and ways of working on human rights – in a changing context of more aligned and harmonised aid and new aid modalities. Yet human rights have not been addressed explicitly in the Paris Declaration on Aid Effectiveness, and there is little written at present on ownership, alignment, harmonisation and other key principles of this document from a human rights perspective.

The OECD-DAC Network on Governance (GOVNET) – through its Task Team on Human Rights and Development – has begun to address these issues. As part of its efforts to foster a consensus among donors on how to work more strategically on the integration of human rights and development, it has commissioned ODI to explore the synergies that might exist between the human rights and aid effectiveness agendas and possible implications for the implementation of the Paris Declaration.

The result of this work is a series of papers that outline a human rights perspective on aid effectiveness:

- A Framework Paper on Aid Effectiveness and Human Rights: Strengthening the Implementation of the Paris Declaration.
- Five Think Pieces on Human Rights and the Key Principles of the Paris Declaration: Ownership, Alignment, Harmonisation, Managing for Results and Mutual Accountability.

This executive summary offers an introduction and brief overview of the key findings and messages of these papers.

2. The Paris Declaration as part of a coherent development vision

On 2 March 2005 more than one hundred donors and developing countries agreed in Paris to undertake some landmark reforms in the way they do business together. The Paris Declaration marks an unprecedented level of consensus and resolve to reform aid to make it more effective at combating global poverty and inequality, increasing growth, building capacity and accelerating achievement of

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[1] This summary was written by the OEC-DAC Network on Governance Task Team on Human Rights and Development with contributions from ODI.

the MDGs. The 56 partnership commitments included in the Declaration are organised around five key principles:

- Ownership: Partner countries exercise effective leadership over their development policies and strategies, and coordinate development actions.
- Alignment: Donors base their overall support on partner countries' national development strategies, institutions and procedures.
- Harmonisation: Donors' actions are more harmonised, transparent and collectively effective.
- Managing for results: Donors and partners manage and implement aid in a way that focuses on the desired results and uses information to improve decision-making.
- Mutual accountability: Donors and partners are accountable for development results.

The Paris Declaration is a short and operational framework and its five key areas of commitment represent a broadly-based consensus among different actors involved in making aid more effective. In their efforts towards implementation of the Declaration, donors and partners have been primarily focusing on improving the efficiency of financial and administrative arrangements necessary to reduce transaction costs and improve aid delivery particularly in the light of donor commitments to scaling up aid. This focus on aid delivery modalities, appropriate mix of aid instruments, harmonisation of donor procedures, adoption of joint approaches, alignment with partner country financial management systems is an essential contribution to making aid more effective.

However, changes to the mechanics of aid delivery have a potentially significant impact on the nature of the results that will be delivered and serious implications for the ends to be achieved. Furthermore, the five key principles of the Paris Declaration have implications which extend beyond aid delivery per se. They are major reference points for guiding policy dialogue and shaping the contents of development co-operation programmes in all sectors and in cross-cutting areas. Confining donor efforts to improving the mechanics of aid delivery would not therefore be sufficient in itself to make a real impact on development effectiveness. There needs to be due donor attention to substantive policy considerations and to the quality or nature of results to be achieved.

There are some indications in the Paris Declaration that human rights are an important reference for the approaches that are being developed for its implementation:

- The Paris Declaration is quite clear (see its first two paragraphs) that measures to enhance the effectiveness of aid delivery are being undertaken – not in a vacuum, and not for their own sake, but – for the purposes of achieving agreed development goals. The Paris Declaration identifies these as being expressed in the MDGs. The Millennium Declaration, the 2005 World Summit Outcome Document and other major

international political commitments are also important reference points. It is therefore fair to say that because the development results donors and partner countries are trying to achieve through improvements in aid include the realisation of human rights (and other policy issues highlighted in the respective documents), those improvements should be designed with human rights in mind. If not, there is a danger, not only that the reforms will not be as effective in achieving these development results as they could be, but, even worse, that there could be unintended effects of the new aid arrangements that would actually frustrate the achievement of globally agreed development results.

- While the Paris Declaration pays a great deal more attention to the mechanics of aid, it also explicitly recognises important policy dimensions of aid, and the need for a more coherent approach to them as well (see paras 37-42). The harmonisation section of the Paris Declaration identifies the need to work more coherently on the governance agenda in fragile states, and also for a harmonised approach to environmental assessments. Para 42 notes that 'similar harmonisation efforts are also needed on other cross-cutting issues, such as gender equality and other thematic issues...'.
- The Paris Declaration offers substantial entry points for human rights-inspired approaches by promoting a model of partnership that is explicitly addressing accountability gaps and focusing on stronger and more balanced mechanisms for accountability.

3. Human rights and aid effectiveness

As indicated above, human rights merit attention in an aid effectiveness context by virtue of their importance as development goals. But this is not the whole story. A second, more important, line of argument suggests that experience and approaches from human rights practice have – beyond their importance as development goals – additional significance for the aid effectiveness agenda by making a positive contribution in terms of improving 'effectiveness'. Thus, human rights provide two main forms of support:

- A commonly shared and globally agreed normative and legal framework. This is one of the most complete and holistic frameworks available to the international community – including donor and recipient governments[2] – for assessing development performance, providing universally applicable standards underpinning its claims to fairness, legitimacy and objectivity.
- A series of practical tools and established programming approaches for applying the framework to development efforts. In practice, this entails analysing the contribution that a human rights framework can make to interpreting and specifying the significance and reach of the five key principles of the Paris Declaration, a better understanding of the linkages among these principles, and its expected outcomes, results and impact,

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[2] Today, all UN member states have ratified at least one of the seven core human rights treaties, and 80% have ratified four or more.

including the mechanisms and indicators required to monitor the implementation of the Paris Declaration.

The following highlights some of the specific contributions that human rights can make towards a better understanding of the Paris Declaration's key principles and their implementation.

3.1 Mutual accountability

The Paris Declaration commits donors and partners to being accountable to each other in the achievement of development results. Questions then arise regarding the substantive and procedural basis for such accountability: Precisely what will they be accountable to do and how will success be judged? And what can make this accountability genuinely 'mutual'?

From a human rights perspective, strengthening domestic accountability between recipient governments and their own citizens is essential for ensuring effective use of aid to produce sustainable development outcomes. Furthermore, individual human rights are important for ensuring the quality of horizontal and vertical accountability mechanisms and of the rule of law that underpins accountability. They can also link rights and responsibilities via taxation, a historically important lever for citizens to exercise accountability.

Stronger and more accountable recipient governments are key to mutual accountability and to create more balance in the donor-recipient accountability relationship. Human rights commitments can provide a more solid basis for and clarify the content of such 'reciprocal commitments', moving beyond a narrow focus on aid administration.

The international legal regime established through the human rights treaties – which encompass political, civil, economic, social and cultural rights - is an existing global accountability framework which should be drawn upon. The human rights framework is of benefit in terms of providing common standards that are not the exclusive purview of either donors or partners. It is important to explore what use can be made of this advantage in supporting mutual accountability between donors and partners, as well as in further enhancing the use of the treaty reporting process to stimulate national-level accountability. Finally, a global approach to accountability could help to clarify if and how international agencies could be held accountable by citizens of recipient countries.

3.2 Ownership

The Paris Declaration calls for country leadership of the development agenda. Development priorities are to be nationally determined and take shape in national development strategies, institutions and procedures. As nationally determined priorities become the centrepiece of development assistance, it

becomes critical to assess which processes should be put in place to negotiate them and how legitimate and transparent such processes are.

At the normative level, the human rights treaties a state ratifies create human rights entitlements within the nation. By undertaking these human rights obligations, the state has already gone some distance towards identifying what the nation's priorities are.

At a more operational level, human rights establish that there should be national or citizen-based (rather than government) ownership. This focuses on the quality of the relationship between citizen and state and the associated processes and mechanisms fundamental to achieving meaningful and inclusive national ownership. Centring on citizens has a number of important implications: participation and active citizenship are subject of specific entitlements and obligations – such as the right to take part in public affairs – and therefore provide a more sustainable basis for ownership than generic consultative development processes (such as the PRS).

The realisation of such ownership requires particular processes – mechanisms for representation and interest aggregation that can produce broad consensus about the legitimacy of institutions that govern decision making – and capabilities – to enable citizens to undertake active and informed participation in national and local processes.

Linked to the notion of citizen-based ownership is the issue of state capacity. Human rights provide guidance on state capacity by raising the question of the types and quality of institutions required to ensure national ownership. In particular, from a human rights perspective, an effective state is a necessary but insufficient basis for national ownership. A technically 'capable' state can be developmental but non-accountable, bringing into question the institutional checks and, ultimately, the sustainability, equity and quality of development processes.

Human rights-inspired work in relation to the MDGs and the PRS will be especially useful as a model for identifying national priorities and for engaging in genuinely participatory processes with the broadest most inclusive range of citizenry to further develop them.

3.3 Harmonisation

The Paris Declaration commits donors to take actions that are more harmonised, transparent and collectively effective. However, some concern has been raised that the creation of what would in effect be a 'unified front' of donors could compromise the principle of national ownership.

At the policy level of harmonisation efforts, human rights can make a significant contribution towards addressing this dilemma. As a new OECD publication shows, there is a growing convergence among donors on the integration of

human rights into development cooperation.[3] It is important for this integration to continue and to deepen, not simply because it is an area in which harmonisation is already proceeding but also because of the unique normative character of human rights.

Human rights treaties are international agreements, widely endorsed by both donor and partner states. As such, the human rights framework has legal authority and political legitimacy as well as being comprehensive in nature, in terms both of its content (scope/range) and of the number of countries that have ratified conventions and incorporated commitments into their national priorities (through constitutions, legislation and development plans). At the operational level, the human rights framework can be used to identify common priorities for donors and partners cooperation.

3.4 Alignment

The Paris Declaration commits donors to channelling their support through countries' own institutions and procedures. Donors should not be guided primarily by their own agendas and should avoid putting their own delivery mechanisms in place. The Paris Declaration also makes reference to certain mechanisms, such as national budgets, that will have a central role in the new approach to aid delivery. But an important question remains: how to ensure that national mechanisms are properly responsive to nationally determined development priorities?

Human rights-inspired work to support budgeting processes is well advanced, especially in the areas of women's and children's rights. This work can provide valuable guidance on how to improve accountability in budgetary processes. Experience from gender budgets and children's budgets can be drawn on to help ensure that budgets and other financial and administrative mechanisms are responsive, both to the country's human rights obligations and to the views of the rights holders themselves.

Another challenge to effective national ownership is political conditionality, including its negative consequences for the predictability of aid flows. The limitation of political conditionality has been widely recognised; human rights have the potential to strengthen political dialogue by moving beyond broad political statements to defining 'inner' and 'outer' boundaries of acceptable behaviour based on governments' own human rights commitments. This 'post-conditionality' approach can be used to define national priorities and commitments and to establish the positive support that recipients require, as well as the ways in which donors and partner countries can work together to ensure that this is achieved.

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[3] OECD, *Integrating Human Rights into Development: Donor Approaches, Experiences and Challenges*, OECD The Development Dimension Series, Paris 2006.

3.5 Management for results

The Paris Declaration makes a commitment to improving the management of resources and decision-making processes to achieve results.

The question of how best to improve delivery of results depends necessarily on the nature of the results being pursued. Human rights principles and standards can be used to define the results to be achieved and the strategies needed to achieve them. Articulating development results as 'results-as-rights' has more potential to mobilise domestic pressure for better performance than do traditional technical approaches to development results.

There is no inherent conflict between results-based management and a focus on human rights. As the OECD/DAC study has highlighted, important work has already begun to integrate human rights and results-based management, and these approaches need to be adopted more widely. Furthermore, a human rights approach to management for results can emphasise the importance of transparency and the right to information when it comes to government accountability to citizens, particularly in relation to resource allocation and pubic expenditure.

4. Conclusion

There is much potential for the international human rights framework and the Paris Declaration to reinforce and benefit from each other. The application of the principles and partnership commitments of the Declaration can help advance human rights in a changing context of more aligned and harmonised aid and new aid modalities. At the same time, there is considerable scope for intellectual and practical inputs from relevant human rights experience with the objective of unpacking and specifying the significance, reach and inter-relatedness of the Paris Declaration's key principles. Synergies between the human rights and aid effectiveness agendas should be sought and further developed in the ongoing roll-out of "Paris" – if possible in collaboration with DAC groups working on other cross-cutting policy issues such as gender equality and environmental sustainability – with a view to contributing to the consolidated progress report for the Third High Level Forum on Aid Effectiveness in Ghana in 2008.

Framework Paper

1. Introduction

Donor agencies are increasingly working on human rights issues and integrating human rights policies and principles into their work (OECD, 2006). One of the key recommendations of the OECD publication reviewing donors experiences and approaches – 'Integrating Human Rights into Development' – is that aid agencies, including donors, should promote the integration of human rights into thinking and practice around new aid effectiveness processes, with particular reference to the Paris Declaration (PD). This paper provides an overall analytical framework for integrating a human rights perspective into the aid effectiveness agenda set out in the PD.

The PD, signed in Paris in March 2005, marks an important turning point in international efforts towards improving the effectiveness of aid. Over 100 representatives of governments and international organisations, including those from more than 50 developing countries, put their signatures to a set of 56 action commitments which, while built on the content of previous agreements, represented an unprecedented comprehensive and broad-based consensus among donor and partner countries. The PD implementation provides a unique and concrete opportunity for integrating human rights and aid effectiveness principles and for ensuring that, combined, these principles can enhance development objectives such as the Millennium Development Goals (MDGs), sustainable growth and social transformation.

Although human rights are not explicitly addressed by the PD, there is potentially a great deal of congruence between human rights and a number of aid effectiveness principles, such as mutual accountability, developing national capacities, greater transparency, results-based approaches and policy coherence. At the same time, it should be recognised that there are a number of areas where the PD could be strengthened and where a human rights perspective could contribute to improving its implementation. These include: concerns over the lack of an explicit governance agenda in the PD; assumptions on the links between the aid effectiveness commitments outlined in the PD and the development outcomes and impacts that they are set out to achieve; and, finally, the rather narrow and technocratic focus of the PD, mostly confined to issues of technical capacity in relation to budget monitoring and procurement systems.

In this framework paper we explore the *practical* contribution that a human rights perspective can bring to the implementation of the PD, with a view to strengthening not only its overall configuration/structure but also, crucially, its potential for achieving development objectives, including the realisation of human rights. While the paper addresses the overarching aid-effectiveness framework provided by the PD, many of the arguments put forward are also relevant to the sub-set of challenges posed by the development of new aid modalities: budget support, sector programmes, etc.

The framework paper is organised into five main sections. Section 2 summarises the main features of the PD, focusing on the implicit programme logic underpinning it and the potential for human rights to strengthen it. Section 3 considers the current state of the debate on the relationship between human rights and development, focusing on the growing convergence towards a more integrated analytical and operational framework. Section 4 explores the practical potential of human rights thinking and practice for strengthening the implementation and monitoring of the PD. Section 5 provides some conclusions and recommendations for next steps.

2. What is the Paris Declaration?

In March 2005, over 100 representatives of governments and international organisations, including those from more than 50 developing countries, attended the first High-Level Forum on Aid Effectiveness in Paris. The participants put their signatures to a set of 56 action commitments, grouped into five areas and summarised as below.

- **Ownership:** Partner countries exercise effective leadership over their development policies and strategies and coordinate development actions.
- **Alignment:** Donors base their overall support on partner countries' national development strategies, institutions and procedures.
- **Harmonisation:** Donor actions are more harmonised, transparent and collectively effective.
- **Managing for results:** Donors/partners manage resources and improve decision making for results.
- **Mutual accountability:** Donors and partners are accountable for development results.

Although these commitments build on the content of previous agreements, notably that which is expressed in the Rome Declaration of February 2003, the PD not only is more comprehensive but also reflects a more broad-based consensus. Major efforts are being undertaken in numerous countries and regional bodies to stimulate implementation of the commitments, with any necessary adaptation to local circumstances and initial conditions, such as a country's previous track record in aid harmonisation and alignment. Some donor agencies are taking a serious look at their internal incentive structures, asking whether they are consistent with the spirit of Paris. A plan for monitoring progress over the years to 2010 has been agreed.

2.1 What kind of framework?

The PD is relevant to the whole spectrum of development cooperation activities, including human rights work. Intensive interaction is obviously expected and necessary between the DAC bodies responsible for aid effectiveness and for rights. However, to be effective in generating real coherence, this interaction
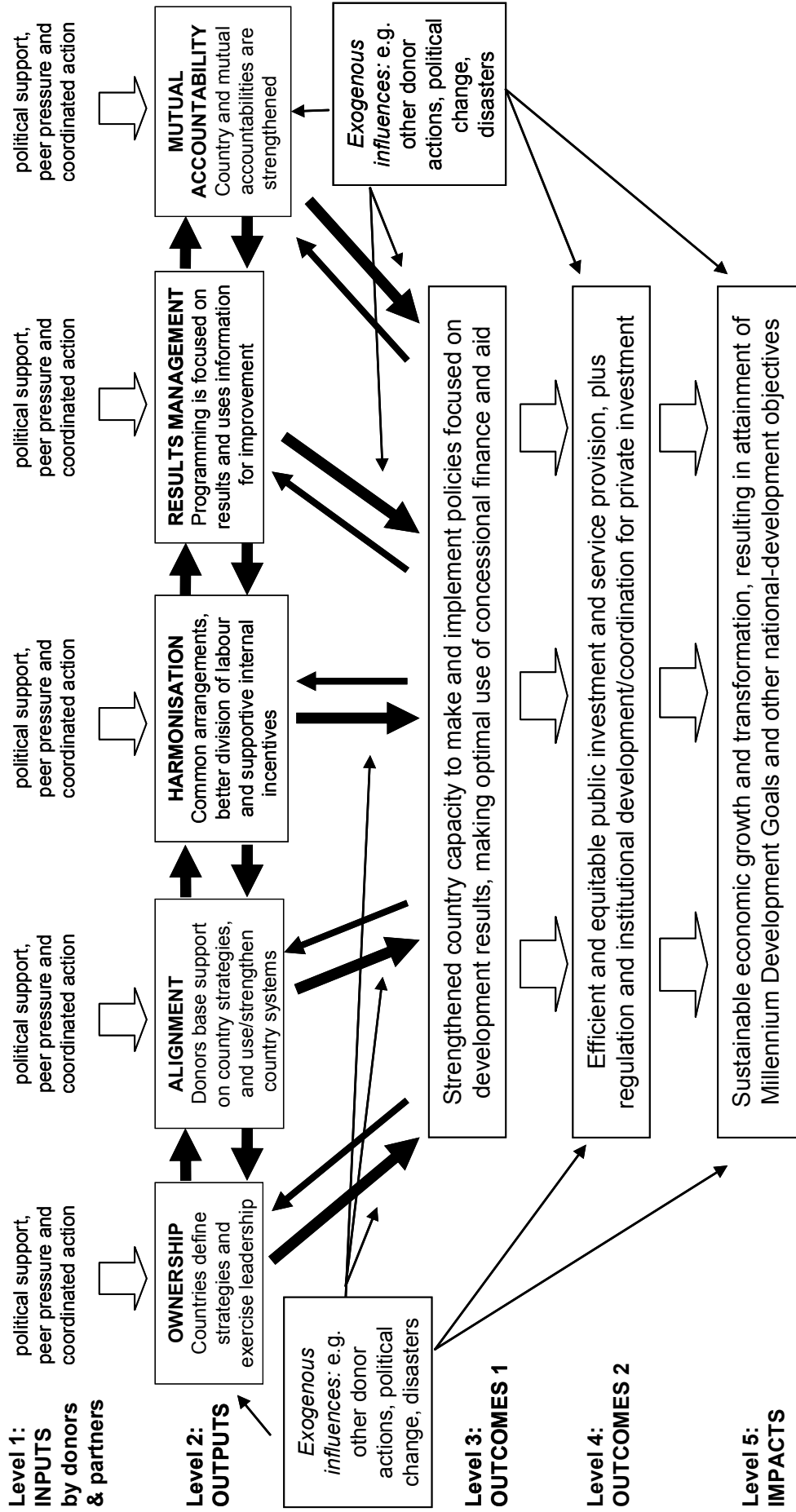
needs to be informed by a good understanding of what the consensus of Paris does and does not represent. For example, there is a risk that the PD could be considered little more than a new set of buzzwords, reflecting the latest set of fashions on donor thinking. In this case, nothing very profound or satisfying would be likely to come out of efforts to close the gap between the aid effectiveness discussion and rights thinking and practice. Even worse would be a reinforcement of the widely shared perception that the debates on integrating human rights and development are little more than a rhetorical attempt to introduce new buzzwords or a glossing over of already established ideas and practice.

At the other extreme, the PD could be seen as the expression of a fully worked-out and tested theory on how institutional changes surrounding the aid relationship may be expected to lead to improved development results. If this were the case, the dialogue could be expected to be more fruitful but rather one-sided, with little scope for rights thinking to contribute to strengthened consideration of aid effectiveness.

The reality lies somewhere between these extremes. Defining the real potential, scope, role and impacts of the PD in delivering effective aid and contributing to development results will be the main task involved in monitoring and evaluating its implementation. In evaluation terms, the commitments have a definite but largely implicit 'programme logic'. In other words, there is a more or less shared informal theory about how the commitments, if fully implemented, would make aid more effective in contributing to development outcomes and the MDGs. Elements of such informal or implicit theory are not just concerned with the commitments of the PD, but also with external and endogenous factors that are likely to influence the way in which the five commitments actually lead to development outcomes and impacts. This approach has been highlighted in the work carried out to consider the scope for evaluating, as well as just monitoring, the Paris commitments (Booth and Evans, 2006). An initial effort to illustrate the programme logic underlying the Paris commitments is shown in Figure 1.

Some parts of this theory are fairly well grounded in research or analysed experience, e.g. that country ownership of the policy agenda is a strong determinant of effectiveness. Others are more widely shared hunches that have not been tested and are often disputed, e.g. the belief that results-based management is good for aid alignment and country ownership, or that aid harmonisation is invariably consistent with country ownership. One of the benefits expected from evaluation work on the PD is a greater articulation of the implicit programme theory, so that, as evidence becomes available, the international community can reflect upon its current course and, if necessary, make corrections. The evaluation and related PD activities represent a unique opportunity to consider the extent to which human rights can make a practical contribution in better defining the theory of changes of the PD and, in turn, its implementation.

Figure 1. An indicative outline for a possible evaluation framework
for the Paris commitments

Level 1:
INPUTS
by donors
& partners

political support,
peer pressure and
coordinated action

political support,
peer pressure and
coordinated action

political support,
peer pressure and
coordinated action

political support,
peer pressure and
coordinated action

political support,
peer pressure and
coordinated action

Level 2:
OUTPUTS

OWNERSHIP
Countries define
strategies and
exercise leadership

ALIGNMENT
Donors base support
on country strategies,
and use/strengthen
country systems

HARMONISATION
Common arrangements,
better division of labour
and supportive internal
incentives

RESULTS MANAGEMENT
Programming is focused on
results and uses information
for improvement

MUTUAL
ACCOUNTABILITY
Country and mutual
accountabilities are
strengthened

*Exogenous
influences*: e.g.
other donor
actions, political
change, disasters

*Exogenous
influences*: e.g.
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actions, political
change, disasters

Level 3:
OUTCOMES 1

Strengthened country capacity to make and implement policies focused on
development results, making optimal use of concessional finance and aid

Level 4:
OUTCOMES 2

Efficient and equitable public investment and service provision, plus
regulation and institutional development/coordination for private investment

Level 5:
IMPACTS

Sustainable economic growth and transformation, resulting in attainment of
Millennium Development Goals and other national-development objectives

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There is a continuing discussion on how much can be done along these lines so early in the process. However, the implication for the present exercise is clear. The Paris commitments do not provide a ready-made and fully consensual framework for thinking about aid effectiveness into which human rights concerns and knowledge can simply be slotted. Rather, the commitments and the relationships between them and with other forces for change and development are to a significant degree hypothetical. Consequently, there is considerable scope for intellectual and practical inputs from relevant thinking about rights.

2.2 Where does the Paris framework need strengthening?

Human rights thinking seems relevant to both the vertical and the horizontal relationships in Figure 1. The realisation of rights (especially economic and social) can feature among the Level 5 impacts, with whose achievement the theory of aid effectiveness is ultimately concerned, while some of the country commitments that appear at Level 2 in the areas of transparency, accountability and participation have affinities with human rights principles. This invites the question as to whether the body of research and experience on the realisation of rights is consistent, in broad terms and in detail, with what the Paris framework suggests regarding the mechanisms by which those results are achieved and when they are achieved in practice. In addition, could human rights thinking and practice contribute to strengthening these mechanisms where they are not sufficiently grounded in theory or evidence?

The answers to the above questions need to go beyond an observation that the Paris framework and a rights framework are congruent in the sense that similar things are normatively valued. The focus needs to be on theories of change, whether these are congruent and whether there is anything that either can do to shed light on the solidity of the other. A further focus should be on the practical value that rights can add to support and monitor the implementation of the PD. For example, in both the Ownership and the Mutual Accountability spheres of the PD (Level 2), quite large questions exist regarding the evidence base supporting the implicit claim that inclusive and participatory policymaking is favourable to strengthened country capacity to make and implement policies focused on results (Level 3). In the human rights field, there is some significant experience on the equivalent issue – the degree to which the realisation of rights concerning public policymaking is causally linked to important intermediate factors that affect the realisation of other rights – with particular reference to the importance of the rights to information and freedom of expression as a prerequisite to the realisation of other rights. Similar questions arise in relation to enforcing formal accountability for human rights. For example, under what conditions does it help, from the point of view of the eventual realisation of economic and social rights, to inscribe accountability for rights in a country's constitution (e.g. Colombia)?

There are equally interesting questions about congruence with regard to the horizontal linkages illustrated in Figure 1. A key issue in the evaluation of the PD is going to be the degree to which the linkages between the Outputs (commitments) are in practice perverse instead of, or as well as, benign. Aid

harmonisation is a case in point. Some observers expect a high degree of harmonisation among donors to be damaging for ownership and thus alignment. There are almost certainly potential conflicts between aspects of Mutual Accountability and the objective of using country systems and procedures of public financial management, oversight and audit to the maximum extent possible. This involves rights in a central way.

Mutual Accountability is unlikely to function in a way that does not include donors calling governments to account over basic human rights violations. As in Ethiopia in 2006, it is going to be hard to reconcile this with the commitment to channel funds in a way that is predictable and regularised enough to become a positive factor in the strengthening of public sector capacity. Practical approaches designed to minimise this conflict have been suggested on the basis of experience with 'political conditionality'. What else does the human rights framework and practice tell us about managing trade-offs of this type?

Finally, it is important to acknowledge that human rights could also be useful in mitigating some of the potential risks or shortcomings of the PD. These are further elaborated in Section 4 of this paper, where we consider how human rights can strengthen PD implementation. Some of the shortcomings that may have a direct negative impact both in terms of development outcomes and human rights include:

- A weak framework for accountability, mostly based on a technical approach to donor-partner relations that could undermine domestic accountability and governance (Uvin, 2004).
- An assumption that enough consensus can be generated to develop inclusive national policies in the name of ownership, which may exclude marginalised or vulnerable groups.
- A narrow technocratic focus on financial and budgetary processes and institutions which could exclude other key actors and 'duty bearers' in key policy areas who contribute to achieving sustainable development and the realisation of human rights. This is particularly relevant for the 'capacity' agenda proposed by the PD, which is narrowly focused on systems and institutions involved in budget monitoring and resource management.

For these reasons, we believe that human rights can make a specific contribution towards strengthening the PD in relation to its 'hidden' agenda on governance, with a view to mitigating some of the risks listed above and contributing to a more holistic framework for promoting aid effectiveness, development results and the realisation of human rights (see Section 4).

In this section, we have proposed some challenges and questions which, if addressed and answered, could contribute in important ways to strengthening the Paris framework. At the same time, these points can be used in thinking through what it would mean for the human rights work of donor agencies to comply with the spirit of Paris. Before turning our attention to these questions,

and more generally to the practical value of human rights for strengthening the implementation of the PD, it is necessary to consider whether the debate on the role of human rights in development has generated enough evidence of a substantial convergence between the realisation of human rights and the achievement of development objectives, such as the MDGs.

3. Human rights and development: where have we got to?

The relationship between human rights and development is a dynamic and complex one and, as such, can be analysed in different ways. However, when examining the evolution and the features of this relationship, it is important to bear in mind that human rights have value in themselves and that they embody international consensus on certain core objectives and attributes of what it is to be human. Interestingly, as the work of authors such as Sen, Nussbaum and Rawls demonstrates, such intrinsic values are not only grounded in the human rights tradition but also have emerged in theoretical debates in development that link the 'universal' human nature and human dignity to notions of human capabilities, entitlements, freedoms and primary goods (Uvin, 2004).

The international normative framework gives global legitimacy to the universal principles and values of human rights. From a legal perspective, countries that have voluntarily ratified human rights instruments have an obligation to protect, fulfil and respect all rights, including civil and political as well as economic and social rights. Global legitimacy, intrinsic values and universal obligations are some of the key features that have been shaping the debates around the increasing relevance and role of human rights in development practice. However, as argued by Uvin, the fact that human rights language has become strongly codified in international law brings with it both strengths (i.e. the legal mechanisms subscribed to by a number of states) and weaknesses (the neglect of non-legal and non-state mechanisms of change) (Uvin, 2004). Our analysis of the relationship between human rights and development is based on some of these strengths as well as some of the weaknesses.

Few development practitioners would deny or even underestimate the intrinsic values and universal principles of human rights. However, sometimes they (still) question their relevance and applicability in development practice. *Is there more than a normative framework to human rights?* This is a question often posed by development practitioners and thinkers seeking to understand how human rights thinking and practice can be integrated into their own work. It is, of course, a difficult question from a human rights perspective, as it tends to emphasise the empirical (although not necessarily instrumental) approach to the integration of human rights into development. However, the answer remains central to understanding the evolution and the current state of this debate.

Although many development thinkers and practitioners would acknowledge that the value added of a human rights approach derives from the global legitimacy that human rights have acquired through the international *normative* framework. However, they would also argue that rights thinking and practice have the

potential to make a real difference at the *analytical* and *operational* levels. This was the approach adopted by Moser and Norton (2001) in investigating the potential contribution of a human rights perspective to the development of policies and programmes that strengthen the sustainability of poor people's assets and livelihood security. They concluded that a conceptual framework for assessing such potential should operate at all three levels: *normative, analytical and operational*.

In this paper we specifically aim to assess the practical and operational value that human rights can bring to the implementation and monitoring of the PD (see Section 4). This analysis is underpinned by two main claims, which will be explored further in the remainder of this section:

- That there is sufficient evidence indicating that human rights matter for achieving development results and, conversely, that development efforts can bring about significant changes in relation to human rights.
- That the combination of the normative and analytical frameworks is generating significant convergence towards an integrated approach of development and human rights practice.

In trying to analyse this, it is important to bear in mind that the debate around human rights and development is extremely fluid. As a result, the range of possible answers should not be considered as definitive but rather as milestones towards a more robust 'theory of change' on the relationships between the realisation of rights and development outcomes.

3.1 The evolution of the debate on human rights and development

The most recent and powerful example of an integrated approach to development and human rights comes from *In Larger Freedom: Towards Development, Security and Human Rights for All*, the recent report submitted to the Millennium Summit by the UN Secretary-General (2005). In the Executive Summary to this report, Kofi Annan states that:

> The world must advance the cause of security, development and human rights together otherwise none will succeed ... In a world of interconnected threats and opportunities, it is in each country's self interest that all of these challenges are addressed effectively.

From this perspective, security, development and human rights are imperatives that reinforce each other. This proposition is not new. Since its establishment in 1945, the UN has had as its mandate human rights and development, peace and democracy, as set out in the opening paragraph of the UN Charter (1945):

> We, the people of the United Nations, determined to save succeeding generations from the scourge of war ... reaffirm our faith in fundamental human rights ... and for these ends agree to employ international

machinery for the promotion of the economic and social advancement of all peoples.

Although the debate regarding the integration of human rights and development has reached centre stage only over the past 10 to 15 years, rights have made up an increasingly important component of international development discourse. What is perhaps less clear is the extent to which the resistance towards the operational integration of human rights and development practice has been overcome. According to Gauri (2005), the differences between a rights orientation and an economic approach are not as significant as they first appear, at least in relation to education and health policies. Gauri argues that both approaches prescribe similar methods for service delivery, including increased access to information, more logical organisations for clients, improved advocacy and changes in sectoral governance. However, some difficulties remain. Gauri points to a number of challenges posed by both the human rights and the development approach, including the normative emphasis of inequality, adaptive versus reactive preferences, and the challenges of trade-offs.

More generally, a number of factors have been militating against attempts to reconcile the human rights and development agendas. These include historical and geopolitical circumstances such as the Cold War, which led to the separation of different categories of rights, reflected in the two separate human rights covenants of 1966, one on civil and political rights and one on economic, social and cultural rights. The debate around the justiciability (i.e. the ability to be translated into enforceable laws, norms and standards) and feasibility (e.g. the costs of realisation) of economic, social and cultural rights continues to raise challenges, sometimes detracting attention from more operational concerns (Gauri, 2005).

The international frameworks represent an opportunity to establish real accountabilities between rights holders (e.g. citizens, women, indigenous people etc.) and duty bearers (e.g. governments). However, a disproportionate emphasis on the legal framework establishing obligations and entitlements and on legal avenues for claiming rights can act as a barrier to open and transparent dialogue between the different actors involved in development efforts and human rights work. Similarly, technocratic discourses of development economics can make it equally difficult to broaden the debate to include non-economist audiences.

In spite of these obstacles, over the past few decades the debate has moved forward in a number of ways. Today, human rights and development agendas are converging more clearly than ever before, although in practice they often still remain separate domains of interventions.

3.2 The normative, analytical and operational level

At the normative level, the Vienna Declaration in 1993 marked an important turning point, establishing the principles of universalism and indivisibility of all rights. These were further reinforced by the 2000 UN Millennium Declaration and

Human Development Report. Finally, in 2003 the UN agreed to a landmark interagency common understanding providing a shared definition of a 'human rights based approach to development' (OECD, 2006).

At the analytical level, the work of Amartya Sen has made a very significant contribution, moving forward both the theoretical and the empirical debates. His 'entitlement approach' provides a framework for analysing the relationship between rights, obligations and *individual entitlements to things*, which represent the 'totality of things that a person can have by virtue of her rights' (Vizard, 2001; Sen, 1984). His characterisation of fundamental freedoms and rights is directly related to economic poverty and deprivation (Sen, 1999).

> Lack of substantive freedoms [sometimes] relates directly to economic poverty, which robs people of the freedom to satisfy hunger, to achieve sufficient nutrition or to obtain remedies for treatable illnesses ... In other cases the unfreedom links closely to the lack of public facilities and social care ... or of effective institutions for the maintenance of local peace and order. In still other cases the violation of freedom results from a denial of political and civil liberties by authoritarian regimes and from imposed restrictions on the freedom to participate in the social, political and economic life of the community.

Sen's empirical work also suggests a connection between the protection of civil and political rights and the prevention of famine. He argues that the causes of famine are not necessarily related to the decline of food availability but are the result of the inadequate provision – in the prevailing legal and institutional frameworks – of individual entitlements and means of survival (Vizard, 2001). Other relevant empirical work has focused on the instrumental importance of civil and political rights (Kaufmann et al., 2005) and on the instrumental value of ESCR claims (Gauri, 2005).

These advances in the theory underpinning the connections between human rights and poverty are leading to experimental and applied analytical work using rights frameworks and principles to investigate different dimensions of development practice. Some particularly interesting examples (relevant to the aid effectiveness agenda) come from different attempts to develop and test rights-based indicators for measuring development and governance outcomes (see Court, 2006; Malhotra and Fasel, 2005; Landmann, 2006). This work – which remains relatively embryonic – not only helps to shed light on the nature of the (causal) relationship between human rights and development, but also explores the potential of using human rights as a benchmark for assessing the impact of development efforts in terms of progressive realisation (or reduced violations) of the rights of the 'targeted' groups or individuals.

One way of establishing whether the debate on rights and development is making progress is to consider the extent to which it is changing the policies and practices of those directly involved in human rights and development work. As the study published by OECD in 2006 demonstrates, donor policies are

increasingly integrating human rights both as a set of principles and, increasingly, as operational priorities for development programmes. The majority of donor agencies either have human rights policies or are in the process of developing them. Most of these policies make some reference to the **international human rights framework,** even through the degree to which agencies anchor their approach in human rights standards varies.

In this section, we have reviewed the current state of the debate on the relationship between human rights and development. This section has also identified promising signs at the normative and analytical levels pointing to the need to move the debate towards a more operational approach. What practical difference can human rights make to development efforts? More specifically, can they make a difference in the implementation and monitoring of the PD? Sections 4 and 5 attempt to contribute to answering these important and challenging questions.

4. How human rights norms, analysis and practice can contribute to the goals of the Paris Declaration

Human rights norms, analysis and practice not only make a real contribution to strengthening the underlying principles and structures of the PD. **They can also add 'practical value' by providing additional tools to strengthen the PD's implementation and monitoring.** This 'practical value' of human rights is the specific focus of this section, which considers the extent to which human rights principles and practice can help in ensuring that progress on the PD commitments will actually result in lasting changes in terms of economic growth and transformation, and the attainment of the MDGs and other national development objectives. In practice, this entails analysing the contribution that a human rights framework can make to better understanding the vertical and horizontal linkages between the five commitments of the PD (Level 2 in Figure 1) and the expected outcomes, results and impacts in terms of development objectives and social transformation (Levels 3, 4 and 5 in Figure 1).

In Section 3 we analysed the relationship between development and human rights, concluding that there is growing convergence among scholars, policymakers and practitioners on the relevance of human rights to development and poverty reduction efforts. In light of such convergence, it is possible to conclude that there is a relationship between human rights and the expected results, outcomes and impacts of the aid effectiveness agenda set out in the PD (Levels 3, 4 and 5 in Figure 1). In particular, 'sustainable economic growth and transformation' (Level 5) is inherently linked with the human rights situation in developing countries insofar as development results and impacts are part and parcel of the realisation of people's rights.

But how do we get there? In other words, in what ways can human rights norms, analysis or practice strengthen the theory of change and implicit PD 'programme logic'? Can human rights help to increase the likelihood that aid that is delivered

and managed according to the Paris principles will actually result in sustainable changes in the lives of people?

We approach this challenging question in two stages. First, we identify some of the areas where the PD needs strengthening and where a human rights perspective has the potential to improve its implementation. Secondly, we analyse the overall 'programme logic' of the PD, identifying the main linkages between its five commitments and the development results and impacts that it aims to achieve. In particular, we identify the main vertical and horizontal linkages of the PD (see Figure 1) where we believe human rights have the greatest potential to strengthen its implementation. The overall analysis presented in this paper is complemented by five Think Pieces highlighting the potential of a human rights perspective for each of the partnership commitments (see Annex).

4.1 Aid effectiveness and good governance: the missing link in the PD?

In Section 2, we argued that human rights have the potential to make a practical contribution to better defining the implicit theories of change and programme logic underpinning the PD. That is, to shed light on the conditions necessary for the PD to work in reality and to deliver not only more effective aid but also, crucially, sustainable economic growth, development outcomes and the realisation of human rights. This applies not only to the constitutive elements or building blocks of the PD (i.e. the five commitments) but also to the overall assumptions about the context in which the PD will actually be implemented (i.e. the external factors and exogenous influences in Figure 1). It also refers to the key elements, currently missing or not sufficiently integrated in the PD, but nevertheless crucial for achieving its goals and objectives. One of these 'missing' elements in the PD is the governance context: the PD currently only makes references to the challenges posed by corruption and lack of transparency and to weak governance and capacity in the context of fragile states.

Such references could be interpreted as an encouraging sign that the PD, although mostly concerned with an operational agenda around aid effectiveness, provides some openings for a wider set of issues relevant in development and human rights terms. They could even be interpreted as the recognition that governance is a challenge when aid dependency is high, exposing countries to greater risks of corruption and weak accountability (Uvin, 2004). We would argue that human rights thinking and practice could help to make a stronger case for a more explicit commitment to 'good' governance in the PD – both as a precondition for, and as a desirable outcome of, improved aid effectiveness – by highlighting the linkages between good governance, aid effectiveness and realisation of human rights.

There is little doubt that governance matters for development. It matters because, *inter alia,* it places issues of political processes, power, rules and capacity at the heart of development efforts. In this respect, the notion of governance is of direct concern for resource management and aid effectiveness,

as well as for democracy and human rights (see for example European Commission Communication on Governance and Development, October 2003, COM (03) 615).

In addition to the overall agreement on the importance of the principles underlying 'good' governance, there is an increasing body of empirical evidence showing the linkages between particular types of governance – what donors perceive as being 'good' – and development outcomes (Kaufmann et al., 2005), as well as the operational implications of different governance measures (Hyden et al., 2004).

A stronger emphasis on governance could help make the PD a less 'technocratic' framework, mostly concerned with issues of budgetary systems and processes, and instead include some key dimensions that appear to be crucial in a realistic agenda for aid effectiveness, sustainable development and human rights. For example, a stronger emphasis on governance would broaden the capacity development agenda of the PD – currently mostly concerned with financial management and procurement systems – to include other key functions of the public administration that are also fundamental to securing effective, transparent and fair resource management. More broadly, it would reinforce the acknowledgement of the need for institution building across different policy areas, with a view to supporting ownership and accountability at all levels (see Think Piece 1: Ownership and Think Piece 5: Mutual Accountability).

Despite the overall consensus around the role of good governance in development processes, there are also concerns around its applicability and scope. As argued by Grindle (2002 and 2005) and others (Unsworth 2006), the concept of 'good governance' poses significant challenges, mainly related to the fact that governance is a generic and all-encompassing concept:

> Getting good governance calls for improvements that touch virtually all aspects of the public sector. Not surprisingly advocating good governance raises a host of questions about what needs to be done, when it needs to be done and how it needs to be done.' (Grindle, 2002)

This is of course a risk in the context of the PD, which is intended as a focused and 'action-oriented' framework for effective partnership between donors and partner countries.

We suggest that human rights could help to mitigate this risk, not only by integrating a more explicit governance agenda into the PD, but also by making sure that this is focused on clear principles and priorities in relation both to the overall 'theory of change' underpinning the PD, and to each of the five partnership commitments (see the Think Pieces). In particular, a human rights approach to governance and aid effectiveness could help to identify, prioritise and strengthen some of the 'weakest' vertical and horizontal linkages currently underpinning the programme logic of the PD, as illustrated in the next section of this paper and in the Think Pieces.

4.2. The link between the partnership commitments and development results: the PD impact chain

When considering the contribution that the human rights framework can make in the implementation of the PD, we are particularly concerned with the question of the impact of the PD on development results and objectives, including the realisation of human rights. In other words, we are interested in analysing the contribution that human rights can make to the five commitments (Level 2 in Figure 1) in relation to results and impacts (Levels 3, 4 and 5 in Figure 1). Although the human rights framework has something to contribute to all five commitments of the PD (see Think Pieces), in the sections below we concentrate on those linkages between the commitments and developments results and impacts where we think human rights can add the most practical value to strengthen the implementation of the PD. These are:

- The role of Mutual Accountability and Ownership in promoting better development outcomes and impacts;
- Positive conditionality and fragile states: using human rights to reconcile Harmonisation, Alignment and Ownership;
- Human rights and Managing for Results: improving the linkages between commitments and outcomes.

4.2.1 The role of Mutual Accountability and Ownership in promoting better development outcomes and impacts

a) From Mutual Accountability to development outcomes and impacts

We suggest that **Mutual Accountability is the area where human rights thinking and practice has the greatest potential** to contribute to the implementation of the PD and to improving its potential for achieving better development outcomes and impacts. The section of the PD on Mutual Accountability includes four specific commitments: two by partner countries, one by donors and one made jointly by partner countries and donors. As well as undertaking to strengthen the parliamentary role in national development strategies and budgets, partner countries make a commitment to 'reinforce participatory approaches by systematically involving a broad range of development partners when formulating and assessing progress in implementing national development strategies'.

While donors commit to providing better information on aid flows, the two parties together commit to 'jointly assess through existing and increasingly objective country-level mechanisms mutual progress in implementing agreed commitments on aid effectiveness, including the Partnership Commitments'.

The implicit programme logic assumes that, separately and together, these commitments are ways of improving the effectiveness of aid and helping to generate improved development results. Our argument is that **rights thinking**

and practice have something important to contribute in turning this claim into a reality, by better defining the meaning and key features of the different components of Mutual Accountability from a human rights perspective.

In many aid-dependent countries, the most prominent accountability relationship for the use of aid funds runs **from recipient governments to donor agencies**. Although this is recognised as one of the main obstacles in achieving a higher degree of 'downward' accountability in aid relationships, the PD makes little mention of donors' domestic accountability. Human rights can contribute to strengthened **domestic accountability** in both donor and partner countries. Strengthening the accountability of recipient and donors governments to their own citizens and parliaments is a key component of any long-term, sustainable solution to poverty and aid dependence, including the realisation of human rights, whether in the form of the MDGs or any other chosen formulation. Strengthening domestic accountability is therefore inextricably linked to human rights realisation, and it is fully congruent with the relationship envisaged in the human right framework between rights-holders and duty-bearers. However, in many countries this has been quite an elusive element of the mutual accountability agenda.

The implicit 'programme logic' of the PD assumes that the use of participatory and inclusive approaches to policy formulation and assessment is both integral to the concept of Mutual Accountability and an important factor in the achievement of development results. It is increasingly recognised, however, that existing ways of promoting consultative and participatory approaches to decision making at the country level, such as the PRSPs, have more or less serious weaknesses (Booth, 2005; Booth et al., 2006; Gould, 2005; Eberlei et al., 2005). **Rights thinking and practice has the potential to help in filling the rather substantial gap this creates for the operationalisation of the PD.**

A human rights approach to participation and accountability to different stakeholders moves away from viewing social participation and 'voice' as things that are conceded by reluctant governments as conditions for the receipt of aid. It places emphasis on the exercise and claiming of rights by people – including the right to take part in the conduct of public affairs – and the obligations that governments have by virtue of their position as signatories of international conventions and/or the corresponding constitutional provisions and laws of the country. Not only is this in principle a superior basis for promoting 'participation', but also there are reasons for thinking that it is, in practice, one that works better. That is, **there is evidence that the claiming of rights is an efficacious way of achieving better development outcomes.**

For example, there are experiences suggesting that human rights movements and organisations adopting this approach and working to strengthen the capacity of rights holders to claim their entitlements not only are successful in supporting active citizenship and participation in decision making, but also can contribute to achieving equitable development results. This is the experience of organisations such as the Indian NGO Mazdoor Kisan Shakti Sangathan (MKSS)

working in on the issues of transparency and rights to information as preconditions for fighting corruption and achieving tangible results for local communities in rural Rajasthan (Jenkins and Goetz, 1999). There are also sectoral examples of the **efficacy of human rights claims** in achieving better development results, such as those stemming from the HIV/AIDS field. The framing of HIV/AIDS as a human rights issue, by emphasising how it is affected by multiple violations and discrimination, has strengthened public health policies and increased the likelihood of fair treatment for all in a way that participatory policymaking on its own could not have done. In this case, the rights discourse has been effective not only in eliciting a better response from the national government, but also in altering the policies of big international players. In South Africa, for example, advocacy and human rights groups using political, economic and legal arguments obtained reductions in medicine costs from major producing firms (e.g. Treatment Action Campaign in South Africa) (for further details see Think Piece 5: Mutual Accountability).

We do not want to suggest that every activity involving the claiming of human rights contributes, regardless of context, to the efficient achievement of development results or successful implementation of pro-poor policies. For example, the adoption of economic and social rights into national constitutions does not necessarily lead to their realisation. To begin with, the necessary resources are not always in place to implement policies and programmes to enforce rights (e.g. South Africa), although often this is put forward as an argument in principle rather than one based on empirical evidence (Gauri, 2005) and should be tested in different jurisdictions where the legal and economic conditions tend to vary. Also, in some circumstances, the resulting emphasis on legal redress mechanisms can either put too much stress on the courts system or lead to particular interest groups pressing claims in ways that cause policy distortions which make the widespread attainment of economic and social benefits less likely (e.g. Colombia: Kalmanovitz, 2001; Cárdenas et al., 2006). Nevertheless, **there are many circumstances in which a rights-based campaigning approach may be expected to be the most likely way of giving real substance to the PD's implicit claims about participatory policymaking and development results.**

The above examples suggest how activities focused on rights can strengthen mechanisms and processes for holding public and private actors to account, both within countries and, to some extent, beyond. We also suggest that a rights approach might help in operationalising the joint donor-country commitment on Mutual Accountability. Recent piloting of the PD monitoring survey has thrown up some questions about the ways in which the operationalisation of this commitment is being realised. **It seems worth considering that assessing mutual progress might be focused at least initially on a limited range of commitments that not only are included in the PD but also are the subject of international conventions on rights.**

The international human rights framework is one of the most complete and holistic available to the international community for assessing development

performance, providing universally applicable standards underpinning its claims to fairness, legitimacy and objectivity (Archer, 2006). These standards represent a unique point of reference for donors and partner/recipient countries to agree on shared goals and enhance answerability to one another. A possible practical outcome from integrating a human rights perspective into the implementation of the joint Mutual Accountability commitment of the PD would be to **focus attention on measuring both parties' practices in relation to accountability to citizens, the right to information and transparency.**

A dimension of accountability that has often been overlooked is that **between donor agencies and the populations of poor countries** who are supposed to benefit from their actions. Although it is difficult to achieve this directly, by establishing 'legal' accountability of donor agencies, human rights can be used to establish some common standards and benchmarks with a view to at least better defining this 'missing link'. Accountability of donor countries can also be strengthened through their own domestic accountability mechanisms and more generally the expectations of their citizens in relation to how aid is spent and delivered. Human rights can be used by citizens as a tool to assess and monitor the effectiveness of their government's development assistance and by parliamentarians to hold the executive to account for resource allocations. There are also possibilities for human rights to be used directly to challenge the way in which aid is used through the courts.

b) From Ownership to development results and impacts

The Ownership commitment (countries exercise effective leadership over their development policies, etc.) **is one of the most challenging in the PD.** In presenting their illustrative evaluation framework, Booth and Evans (2006) note that if country ownership is not developing for domestic political reasons, donor efforts towards greater alignment and harmonisation are unlikely to be able to create it. Moreover, there are some generally recognised tensions among the PD commitments, with some observers expecting some aspects of donor harmonisation to have negative implications for the assumption of ownership by countries.

Ownership is also a challenge when one thinks about how human rights can contribute to operationalising the aid effectiveness agenda. This is for at least two reasons. First, human rights can be perceived as (yet another) global framework with limited or no real value to local contexts, 'struggles' and policy agendas. Secondly, if human rights are used to define the bottom-line political conditions for continued donor support and for Mutual Accountability, this surely militates against the very notion of national leadership and locally defined priorities and policies which forms the basis of the ownership commitment (see Section 4.2.2).

Despite these difficulties, it may be argued that **a human rights framework strengthens the processes that matter to national ownership** of the policy agenda in the medium and long term. As recently pointed out by Uvin and others,

aid dependence could potentially undermine institutional quality by weakening accountability and encouraging corruption. In this context, human rights could be seen as acting as minimum criteria for principled behaviour by donors for minimising such risks and 'giving back' accountability, democracy and good governance (Uvin, 2004). Furthermore, human rights establish that there should be national or citizen-based ownership (rather than government or executive ownership) and can provide guidance on how this principle can be operationalised. Ownership needs to be linked to the extent to which the state and other duty bearers are able to fulfil, protect and respect people's rights. The focus is therefore on the **relationship between the citizenry and the state**, not just the government. The quality of this relationship and the associated processes and mechanism are key to achieving meaningful national ownership.

The relevance and quality of the processes that matter to national ownership depend on the capacity, legitimacy and leadership of all institutions involved in national policy development processes. Human rights provide guidance on the types of institutions and **state capacity** required for such national ownership and leadership, making clear that a purely technical assessment is a necessary but insufficient basis for ownership. The concept of ownership, as it is used within the PD, tends to assume that relatively capable and accountable states are already in place, whereas the reality of many partner countries reveals a more complex picture. For instance, it is possible for technically 'capable' states to be developmental but non-accountable, raising questions about the nature of the ownership of national development agendas and processes within those countries and the institutional checks against reversals. From a human rights perspective, ownership must rest on a range of institutions that ensure the legitimacy of the social contract between state and citizenry and that citizens are able to participate in decision-making processes and hold their government to account for these.

c) The link between Mutual Accountability and Ownership: state and institutional capacity/legitimacy

In human rights terms, the focus on state capacity is the main **link between Ownership and Mutual Accountability**, as it helps to define a 'roadmap' towards nationally owned strategies and policies established through accountable and functioning institutions operating within transparent and equitable processes. Such institutions are central to the ability of citizens to claim rights and obtain remedy but, equally, human rights standards and principles are indispensable in ensuring the quality of these institutions (see Think Piece 1: Ownership). Human rights can therefore help to devise a dialogue about 'good ownership'. Rather than this being based on good technocratic processes, as is currently reflected in the PD, these emphasise the development of a social consensus about development goals and how to pursue them, and the mechanisms for representation, interest aggregation (rather than just consultation/participation) and accountability that underpin such a consensus.

Finally, the contribution of rights thinking to clarifying linkages between the different components of the PD, and their potential for achieving development results and outcomes (including the realisation of human rights), is greater when based on a reflection of historical processes, such as those that institutionalised the claiming of human rights in the West. As argued by both Moore (2005) and Unsworth (2006), the need for government to generate revenue through taxation has been a key driver in the development of the social contract between state and citizenry, shaping the evolution of citizenship by enabling citizens to hold their government to account for the way their money is spent and by providing leverage for the negotiation of new rights.

> Tax matters for governance because it has the potential to mobilise a relatively large group of citizens, who have shared interests as taxpayers in how governments spend their money and manage the economy, and some power to make their views count. Interest group politics around taxation provides an alternative to patronage politics, and can strengthen the role of legislatures (Unsworth, 2006).

Moore and Unsworth both conclude that the **weak tax relationship and lack of debate on these issues in developing countries has negative effects on accountability.** Weak accountability implies unwillingness to respond to rights claims and a lack of pressure to develop and carry out policies to achieve development results. Operationalising the PD commitments will require a substantial effort to clarify the precise relationships between these variables, with rights and lack of rights occupying a central position.

4.2.2 Positive conditionality and fragile states: using human rights to reconcile Harmonisation, Alignment and Ownership

Improved predictability of aid flows is increasingly recognised as fundamental for supporting the development and sustained implementation of nationally owned strategies and policies. This is one of the areas in which the Paris agenda calls for a substantial change in donor behaviour, especially in respect of the delivery of budget support (Foster and Killick, 2006). It is also one of the areas in which it is very easy to visualise tensions between commitments on Harmonisation and Alignment and those on Ownership. The content of the 'mutually agreed frameworks' and 'harmonised performance assessment frameworks' that the PD calls for (Paras 19 and 21) is the central point at issue. What is, and what should be, the place of human rights indicators and conditions in the frameworks governing the flow of donor funds?

This is one of the contexts in which discussion of human rights norms, analysis and practice is not just relevant to the PD but also a precondition for its successful operationalisation. The current role of human rights **'conditionalities'** in general budget support programmes illustrates the problem. However, it is also possible to visualise how a deeper and more reciprocal discussion about

rights issues might make an important contribution to making the Paris agenda more coherent in practice than it currently is.

As argued by Uvin (2004), political conditionalities (usually including human rights) often fail to produce the desired results and often translate into just 'strategic compliance', leaving fundamental behaviours and relationships unchanged. In addition, they tend to produce results counter to those sought by the PD, by focusing on dialogue between governments and foreign donors rather than that between governments and their own citizens. Recent unpublished ODI research on the application of political conditionalities points to limited and circumstantial success, mostly related to good donor coordination and to internal processes being already in place. However, the same research tends to confirm that this is usually dysfunctional. This represents a special case of the weaknesses of traditional approaches to aid conditionality, which the PD aims to make a thing of the past. However, it is a particularly worrying one, because it is hard to imagine donors not wanting to include a basic human rights 'floor' in any agreed framework for programme monitoring.

A human rights lens may offer a possible way forward. In general, the PD commits donors to drawing conditions, whenever possible, from a partner's own national development strategies and linking funding to a single framework of conditions. The language is cautious and qualified, for good reason. This is not easy, given that donors and recipients have different interests and perceptions on many issues. **The human rights framework is a good place to start a political dialogue between donors and partners defining the 'inner' and 'outer' boundaries of acceptable behaviour in respect of political governance issues.** Such dialogue should be, and often can be, based on the partner country's own human rights commitments (see DFID, 2006). How exactly to undertake such a dialogue needs exploring, and it is largely dependent on issues of institutional capacity and legitimacy (see 4.2.1. above). Special effort needs to be made to move beyond broad political statements, including generic reference to human rights, and to start to define more precisely at country level the governance areas and human rights issues of concern that could give rise to particular 'incidents' resulting in abrupt changes in aid flows. However, human rights can be used to positively define national priorities and commitments and to establish how donor and partner countries can work together to ensure that these can be achieved – what Uvin (cited in OECD, 2006) has referred to as a 'post-conditionality' approach.

Such an approach is equally relevant in fragile or difficult environments. The Harmonisation commitment refers to the increased coordination and streamlining of activities of different aid agencies, with the aim of reducing the transaction costs to governments of receiving aid. The PD places emphasis on the need for improvements in incentive structures to induce organisational change. Donor harmonisation is considered all the more crucial in the context of **fragile states,** where it states that there is a need for donors to focus on upstream analysis, joint assessments and strategies, use of joint offices and coordination of political engagement.

The relevance of human rights in fragile states environments is often questioned because the state either lacks the capacity to meets its obligations or is unwilling to do so. However, there is an implicit human rights justification for working in fragile states, because of the systemic denial of human rights that usually occurs in these environments. Human rights can play a key role in the process of building effective state institutions and governance structures envisaged by the PD, by helping to identifying core requirements and to prioritise activities, thereby positively supporting fragile states in meeting their human rights obligations. This in turn can support the other commitments, such as promoting ownership in countries with weak governance capacity and increasing the possibility of alignment.

4.2.3 Human rights and Managing for Results: improving the linkages between commitments and outcomes

The commitments on Managing for Results in the PD are most obviously concerned with improving the 'vertical' link between adequate resource management and desired development outcomes. The PD suggests that the connection between resource management and results can be strengthened through 'improved use of information and decision making'. The implicit thinking is that a more intensive use of results-based monitoring and evaluation is – at least – not inconsistent with the realisation of the other commitments: Mutual Accountability (which includes, as we have seen, accountability to domestic stakeholders), Harmonisation and Alignment, and Ownership. The idea that there is a benign relationship between results-orientation and domestic accountability and ownership is suggested by the horizontal arrows in Figure 1. However, there is some fairly compelling evidence that, in practice, this relationship is not benign.

That is, the emphasis on results can turn accountability further outwards (i.e. towards donors) instead of supporting the national 'inwards' processes necessary for achieving ownership and domestic accountability. This happens in spite of donor insistence on the principle that civil society organisations should be involved in the setting of results targets (e.g. within PRSP processes) and in results monitoring. In practice, the NGO role remains rather marginal, and the principal driver of greater Management for Results is a set of donor deadlines (PRS Annual Progress Reports, budget support reviews, etc.) (Liverani and Conlin, 2006). The fact that progress on results monitoring tends anyway to be unsatisfactory from the donor point of view (Booth and Nsabagasani, 2005) does not overcome the tension between the different Paris commitments.

This is another area in which human rights norms, analysis and practice have the potential to contribute to solving a real problem in the Paris framework. There are reasons for thinking that results monitoring systems that put the accent on results-as-rights or results-which-are-rights might be more successful in mobilising domestic pressures for better performance than systems that use the dry and technical language of the monitoring and evaluation business. We would suggest as at least a plausible hypothesis that civil society organisations

campaigning on rights have stronger roots in the country and more mobilisation capacity than those that merely deal in policy dialogue and development advocacy. To the extent that this is true, injecting a stronger rights element into Managing for Results may be a means of reconciling it with domestic accountability and ownership. However, it should also be recognised that rights monitoring and reporting according to international instruments and mechanisms could further reinforce this risk by adding more external agencies (i.e. the treaty bodies) to the plethora of actors to which partner countries must report.

Finally, the PD offers a unique opportunity to reinforce that there is **no inherent conflict between Results Based Management (RBM) and Human Rights-Based Approaches (HRBAs)**. On the contrary, a broader set of objectives based on economic, social and cultural rights could better define the 'content' of desirable development results and a focus on civil and political rights linked to transparency and participation could help improve the 'process' through which monitoring of progress should take place.

We argued previously that human rights could strengthen the Mutual Accountability commitment, particularly by focusing on clearer terms for holding duty bearers to account and by emphasising the role of people as agents in claiming their entitlements and holding government (and other actors) to account. We have now added to this the suggestion that a rights-oriented approach might help in overcoming a fairly serious problem with the Managing for Results commitments, giving the PD as a whole a practical coherence that it may otherwise lack.

In this final section of the paper we have analysed the contribution that human rights thinking and practice can make to the implementation and monitoring of the PD. We have identified and analysed a selection of the vertical and horizontal linkages that are part of the implicit programme logic of the PD where we believe that a rights framework has the most to offer to the aid effectiveness agenda. In the five Think Pieces we summarise what are the main practical implications for each of the five partnership commitments of the PD.

5. Conclusions and recommendations

The international human rights framework is one of the most complete instruments available to the international community for assessing development performance, providing universally applicable standards backed by claims to fairness, legitimacy and objectivity. These standards represent a unique point of reference for donors and partner/recipient countries in their efforts to agree on shared goals and enhance answerability to one another. Such answerability is central to all five commitments of the PD and for ensuring that it delivers in terms of development results and impact.

Because it is linked to an internationally legitimated normative framework, human rights thinking is highly practical. In this paper we have explored the practical potential that human rights thinking has for improving the implementation of the PD. In particular, we have suggested that human rights principles and standards have the potential to improve the implementation of the Mutual Accountability and Ownership commitments of the PD (see Section 4.2.2.), by strengthening the links between these two commitments and the achievement of development outcomes and impacts, including the realisation of human rights.

The monitoring and evaluation of the progress that has been made in implementing the PD is just beginning. In this paper, we have made reference to the initial effort to illustrate the implicit 'programme logic' of the PD contained in the Options Paper for the DAC Evaluation Network (Booth and Evans, 2006). However, the activities that may be undertaken by the Evaluation Network are only one part of the DAC effort to follow up on PD implementation. As well as undertaking a baseline survey using selected indicators, the Joint Venture on Monitoring the Paris Declaration is developing a Medium-Term Monitoring Plan to monitor progress against the full range of commitments in the declaration. As a whole, this effort presents a unique opportunity for integrating human rights and aid effectiveness principles within concrete initiatives aimed at assessing the ability of the PD to deliver improved development outcomes.

It is expected that one of the key steps that will be undertaken with a view to evaluation of the PD will be a wide-ranging discussion of the programme logic and theories of change currently underpinning the PD commitments. This is likely to cover how the commitments relate to the reality of aid dynamics, particularly at the country level. It is to be expected that the matters discussed will include better defining the linkages between the PD commitments and their ultimate goals, such as sustainable growth and social transformation. Regional workshops and country-level activities are likely to be organised to ensure a full debate.

Human rights thinking has a strong potential to contribute to this discussion. Govnet and human rights practitioners need to be part of it. In particular, human rights thinking and practice could help to better define the boundaries and core features of the notion of mutual accountability and to place greater emphasis on the quality and legitimacy of processes and institutions involved in developing nationally owned polices. Similar issues may well arise in the Joint Venture's consideration of proposals for the Medium-Term Monitoring Framework. There may be opportunities for Govnet to contribute relevant suggestions in this context too.

In conclusion, we have suggested that the implementation of the PD can be strengthened if it is integrated with human rights principles and standards. In particular, rights thinking would help to balance the current lack of explicit commitment to the good governance agenda in the PD, by ensuring that

principles of accountability, transparency and equality are fully integrated, in a practical way, in all efforts to increase aid effectiveness.

Actions that the Govnet might undertake in the light of these conclusions include:

- Engaging actively with the DAC Evaluation Network on the next steps in elaborating an evaluation framework for the PD.
- Contributing to the discussion due to take place within the Joint Venture on Monitoring the PD on the content of the Medium-Term Monitoring Plan.
- Provide suggestions for improving the current set of indicators for monitoring PD implementation, including human rights standards and benchmarks.
- Consider the synergies between efforts to monitor the PD at the national level, including the definition of indicators, and existing initiatives aimed at assessing quality of governance and democracy processes and systems.
- Engage with other DAC groups concerned with crosscutting issues such as gender and environment to discuss opportunities and limitations for integrating these into the aid effectiveness agenda.

Think Piece 1: Ownership

1. Introduction: What the Paris Declaration says

The Paris Declaration (PD) defines ownership as 'partner countries exercising effective leadership over their development policies and strategies, and co-ordinating development actions'. To this end, partner countries make three commitments: (i) to lead on developing and implementing national development strategies; (ii) to take the lead in coordinating aid; and (iii) to translate development strategies into operational programmes, and these into medium-term expenditure frameworks and annual budgets. Donors in turn commit to respect country leadership and to support capacity building for such leadership. The section on ownership also contains two references to participation within partner countries, stating that national development strategies are to be developed through 'broad consultative processes' and that aid is to be coordinated while 'encouraging the participation of civil society and the private sector'.

There is a current consensus that country ownership of national development strategies and country leadership of aid coordination are both essential for achieving aid effectiveness. The recognition of this in the PD is important because it follows a long period during which recipient country policies have often been driven by donor conditionality, preferences and practices and where a multitude of (uncoordinated) donor projects have often not effectively promoted long-term sustainable change. However, in practice, promoting greater ownership involves some difficult issues. A human rights perspective can inform some of these challenges.

2. Main entry points and opportunities

Human rights can contribute to the implementation of the ownership commitment in three principal ways:

- Human rights establish that there should be **national or citizen-based ownership** (rather than exclusive government ownership) and provide guidance on how this principle can operationalised.
- Human rights provide guidance on the state **capacity and institutions** required for such national ownership and leadership.
- Human rights can help to develop strategies for operationalising the principle of ownership in **fragile state environments**, including dealing with severe violations and abuse.

2.1 Whose ownership?

Ownership involves the difficult question of interest aggregation and representation, and the orientation towards the needs of various social groups in

partner countries. Aid is provided in a number of different contexts in terms of the type of political regime, the degree of government legitimacy and the implicit or explicit 'social contracts' that exist. The definition of ownership in the PD implies, however, that there is some form of consensus about the development process in partner countries. This is reflected in the choice of indicator, which measures whether a partner country has an operational national development strategy but not the processes for arriving at such a strategy. This suggests that ownership is first and foremost ownership of national development strategies by partner-country governments,[4] regardless of how these are legitimised domestically.

Such a narrow interpretation of ownership and the attendant assumptions about who government represents is particularly problematic in countries where the state is 'captured'.[5] A captured state is one where public benefits and resources are 'privatised' by a narrow group. This involves corruption, the pervasive presence of conflicts of interest (e.g. government ministers having private business interests in the area regulated by their ministry), and widespread formal or informal privileges (such as access to licenses, privileges with regard to taxation, etc.) (Hellman et al., 2000). In such a situation, 'ownership', as exercised by a recipient government, is heavily skewed in favour of certain groups.

Another major challenge is that ownership needs to be linked to the extent to which the state and other duty bearers are able to fulfil, protect and respect people's rights.[6] The focus is therefore on the relationship between the citizenry and the state, not just the government. The quality of this relationship and the associated processes and mechanism are fundamental to achieving meaningful national ownership. In terms of legitimising the national development strategy, the PD mostly relies on the consultative processes that exist for involving stakeholders in the development of poverty reduction strategies (PRS). Even on their own terms, the quality of these processes can be questioned. Whilst the PRS approach has brought significant gains in many countries in opening up new spaces for civil society mobilisation and engagement in national policy debates, there remains legitimate concerns about the quality and scope of participation in these processes and, more generally, in the lack of institutionalisation of these gains (Driscoll with Evans, 2005).

From a human rights perspective, and in contrast to its framing in development debates, rather than primarily being instrumental to the effective delivery of a particular policy on the basis of 'good' development practice, consultative processes are the subject of specific entitlements and obligations. States that

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[4] It is also the case that government ownership can be further restricted to the executive or the ministry of finance. For instance, Driscoll (with Evans, 2005) reports that active engagement in PRS processes often does not extend to sector line ministries and sub-national levels of government.

[5] A related term frequently used in the literature on developing countries is 'neo-patrimonial state'. However, the term captured state is more useful here as it emphasises the aspect of the state that is of particular concern in this context, that is that benefits accrue predominantly to particularistic groups rather than to society at large.

[6] This definition of ownership is particularly outcome-driven and could therefore lead itself to greater scrutiny as envisaged by the Managing for Results commitment

have ratified the International Covenant on Civil and Political Rights (ICCPR) have a legal obligation to realise the right of their citizens to take part in the conduct of public affairs (Article 25) and their right to freedom of expression and opinion (Article 19). This does not mean that citizens must be directly involved in these processes or that all citizens must agree with all policy decisions. However, it does mean that: there should be a broad consensus within society about the legitimacy of national institutions – the processes by which decisions are made and implemented (Leftwich, 2006) – and that citizens are able to undertake active and informed participation in national and local processes (UNDP, 2002).

Such a concept of ownership – as social consensus about the legitimacy of the institutions that govern decision-making and the ability to meaningfully participate in these – has more depth and is more sustainable than that envisaged by both the PD and the PRS approach but it is also a more difficult objective to achieve and will necessarily be a long-term and incremental process. The human rights framework provides guidance about the type of institutions and state capacity needed to underpin such a consensus (see next section).

2.2 What type of state capacity is required for ownership and leadership?

The concept of ownership, as it is used within the PD, tends to assume that relatively capable and accountable states are already in place. This may be appropriate as a global principle but it poses challenges for the operationalisation of the Declaration in the context of countries with widely divergent governance environments. Exercising leadership and effectively coordinating aid also requires relatively strong internal coherence and good state capacity at all levels, which is again a problematic assumption for many poor countries. The indicators proposed by the PD in some ways reflect this. In particular, only those governments that are able to both improve their public financial management systems and develop operational results-oriented national development strategies are 'eligible' for (full) donor harmonisation and alignment efforts. However, this raises the question of the types of institutions required to ensure ownership and whether it is sufficient for these to be limited to those relating to public financial management and 'aid administration' (see Think Piece 2: Alignment).

The table below seeks to capture four ideal types of governance, their implication for ownership and, ultimately, for efforts at aid harmonisation and alignment. As discussed above, the human rights framework can provide guidance on the type of institutions and state capacity required to underpin national ownership (type 1). It makes clear that a purely technical assessment is a necessary but insufficient basis for ownership. For instance, it is possible for 'capable' but 'non-accountable' state to be developmental (type 2), but such states lack the necessary safeguards that can prevent them from becoming particularistic and non-developmental (type 3).

Instead, a human rights perspective suggests that ensuring true national ownership, including guaranteeing the right of citizens to participate in public

affairs, requires a particular legal-institutional framework. Fundamental to this is the ability of citizens to vote in free, fair and competitive elections to elect a representative on the basis of a programmatic platform. These formal democratic processes must also be supplemented with institutions that enable active and informed participation and citizens to hold their representatives to account (UNDP, 2002), requiring transparency/access to information and mechanisms for interest formulation, aggregation and representation, such as parties, professional bodies, media organisations, etc.

Table 1: Relationship between the type of state, ownership, and implications for harmonisation and alignment

Type of state	Implications for ownership	Implications for PD, efforts at H&A
1. Capable and accountable state	→ national/citizen-based ownership	Optimal conditions
2. Fairly capable, non-accountable, development-oriented state	→ paternalistic government ownership	
3. Fairly capable, non-accountable, captured state	→ particularistic ownership	
4. Weakly capable, weakly legitimised 'fragile' state	→ no ownership of a coherent development agenda	Worst conditions

National ownership therefore rests on a range of institutions that ensure that citizens are able to participate in decision-making processes and hold their government to account for these. There is, of course, a great deal of convergence between the institutions required to ensure participation in, and the legitimisation of, policy processes and those that produce effective accountability (see Think Piece 5: Mutual Accountability). In both cases, human rights standards and principles are integral to their operation. The importance of the realisation of a number of individual human rights – the right to vote, the right to association, the right to information, freedom of expression and association – is clear from the preceding discussion. Just as significant, if they are to move beyond the particularistic practices that characterise most developing countries, is the commitment of public institutions to human rights principles.[7] The internalisation of a culture of universalism is particularly important for the emergence of development strategies based on a concept of the national public good.

Human rights can therefore help to devise a dialogue about 'good ownership'. Rather than this being based on good technocratic processes as is currently reflected in the PD, these emphasise the development of a social consensus about development goals and how to pursue them, and the mechanisms for representation, interest aggregation (rather than just consultation/participation) and accountability that underpin such a consensus. Human rights are, in a

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[7] Such as equality, non-discrimination, participation, accountability and the rule of law.

sense, the living embodiment of a historical recognition of the inevitability of individual and group differences, providing an internationally agreed normative framework and set of institutions for resolving conflicting claims as they arise. Again, it is important to stress that development of such institutions and state capacity (type 1) is an incremental and long-term process. It should also be noted that the existence of formal institutions does not guarantee that they function in ways that conform with liberal democratic principles. For instance, given the patrimonial logic that shapes the operation of many developing country parliaments, and their weakness vis-à-vis the executive, it is naïve to assume that these are benign institutions and that strengthening them will necessarily lead to more accountability and to the better use of aid, an assumption implicit in the PD.

2.3 Ownership in fragile state environments

The challenges, and perhaps limits, of the concept of national ownership are most apparent in relation to 'fragile states' (type 4). Where governance structures are non-existence or extremely weak, social consensus about national institutions and processes is not possible and it is unlikely that governments will be able to formulate and carry out a coherent national development strategy. In these situations, an adjusted aid compact may be needed to avoid the frustration of assumed but unavailable ownership. The PD, within its harmonisation commitment, acknowledges that its guiding principles will need to be adapted to environments of weak ownership and capacity.[8] However, partner countries still commit to make progress towards the building of national institutions and governance structures, and to encouraging 'broad participation'. Human rights can contribute by providing donors with tools to positively support such processes by helping to identify core requirements for states to meet their human rights obligations and also to prioritise actions (see Think Piece 3: Harmonisation).

3. Risks and challenges

Perhaps the most important risk that needs to be addressed is the perception that human rights, in particular when these are expressed as **conditions**, undermine the commitment to ownership. Do donors have a right or a moral duty to abrogate efforts at harmonisation and alignment when partner countries deliberately violate human rights, or when their human rights record noticeably declines?[9] And what are the imperatives resulting from pressure and political demands of different actors in northern countries concerned not only with 'principled' behaviour but also with political and reputation risks? As discussed

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[8] Principles for working in difficult environments are further elaborated in the DAC's 'Principles for Good International Engagement in Fragile States'. Although these do not make explicit reference to human rights, they do prioritise core state function, legitimacy and accountability and are therefore congruent with a human rights approach that emphasises supporting duty-bearers (i.e. states) to meet their obligations (OECD, 2006).

[9] Historical evidence suggests that deteriorations in the human rights situation are relatively likely to occur in changing societies (Huntington, 1968).

in relation to the harmonisation commitment (see Think Piece 3: Harmonisation), the tension between human rights and ownership can be countered in a number of ways, including through reference to the normative consensus that exists between donors and partner countries based on their voluntary agreement to international human rights conventions and by 'post-conditionality' approaches based on long-term dialogue and positive support to countries to meet their commitments. Furthermore, while human rights are unlikely to form the basis for discussions about aid allocations in countries where partner governments' commitment to human rights are, in practice, weak, there is a greater imperative to do so when ownership is understood to relate to citizens rather than governments (OECD, 2006).

Nevertheless, as recent events in Uganda and Ethiopia illustrate, the international community, including recipient countries, needs a clearer policy with respect to the processes governing human rights dialogue and conditionality (de Renzio, 2006). In particular, there is a need to develop a more active political dialogue with partner countries that involves an *ex ante* identification of areas of concern, thresholds of acceptable behaviour and the process that will be put in place if these are transgressed – rather than only reacting once events have taken a definite turn for the worse (see Think Piece 5: Mutual Accountability). Such a political dialogue in turn requires good coordination not only within the donor community (see Think Piece 3: Harmonisation), but also between the aid and the foreign policy community.[10]

Finally, whilst sudden changes in aid modalities and quantities may not be in the best interest of the majority of citizens in recipient countries, and therefore other forms of reaction (e.g. visa bans targeted at elites) may be more appropriate, in cases where the overall human rights situation worsens, and does so for prolonged periods, *national* ownership of the development agenda clearly becomes a problematic assumption and, at least for certain areas, it may be advisable to reconsider alignment. The development of a set of 'good practices' for donors engaged in harmonisation and alignment efforts in the context of deteriorating human rights situations would be of benefit.

A related concern is that setting the **benchmark** too high in relation to human rights could mean that a number of countries are excluded from donor efforts at harmonization and alignment. The violation of human rights and principles of good governance occur in most countries, both developed and developing. The development of clear guidelines identifying the 'red lines' or thresholds should therefore be considered, including mechanisms for the reliable and fair assessment and their relationship to level of development.[11] In this context, various groups of countries – for example, post-conflict countries – may need to be measured on the same scale but could be expected to fulfil a lower standard than countries with a good degree of political stability and government capacity.

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[10] For a discussion of human rights dialogue and conditionality, see Piron and O'Neil (2006: 23ff).
[11] These types of assessments are already carried out within treaty monitoring bodies taking into consideration state fulfilment of obligations to rights that are immediately realisable and their efforts to move towards the fulfilment of those that are progressively realisable.

The counter concern is that, as the PD currently stands, human rights, and governance concerns more generally, receive relatively short shrift in the overall effort to scale up aid, and to achieve harmonisation and alignment at least in a formal sense. At present, the main protection against this risk is the emphasis on fiduciary concerns, as the current indicators reflect, which in turn imply that recipient countries with continuously poor public financial management (PFM) systems are de facto 'excluded' from the PD's goals. However, while poor PFM systems and other governance problems (especially corruption) are closely related, other areas of governance and the protection of human rights may be less so.

4. Some examples

This section provides some examples that illustrate some of the opportunities and challenges described above.

4.1 Citizenship and sustainable participation in national processes

Donors can provide support in a number of ways that positively contribute to the building the types of process and institutions that are important for long-term, sustainable citizen-based ownership of national decision- and policy-making processes. For instance, some of DFID's programmes in Latin America have explicitly sought to strengthen citizenship rights. In Peru, DFID's 2000-2005 programme was based on the three-pronged framework of a rights-based approach, citizenship and accountability, which led to a focus on inclusive citizenship and rights through the strengthening of the relationship between state and society. DFID worked to support the mechanisms of citizen participation and oversight and the formal institutions of representative democracy. Projects that facilitated electoral education and oversight, supported the redesign of the institutional and legal framework in which political parties operated and work with political parties themselves aimed to make political society – as the key intermediary between state and wider society – more responsive to the needs of poor citizens (OECD, 2006; DFID, 2005). In Bolivia, DFID has co-funded a project that aims to promote more inclusive political participation by ensuring that Bolivians are registered as citizens so that they can claim their full set of citizenship rights (OECD, 2006).

4.2 Ownership and state type and capacity

As it is currently described in the PD, ownership may have worked best in some non-democratic countries. These governments have generally promoted the social and economic rights of their citizens while withholding civil and political rights. For instance, in a similar fashion to China, Vietnam has a government that proclaims a commitment to economic and social rights, and to overall development, but which seeks to maintain exclusive political control, in the process abusing civil and political rights. The dialogue on human rights with the government is predominantly conducted by the diplomatic, rather than the

development, community; and it is coordinated among EU member states –
pointing to the need for good links between these two communities ('coherence'
agenda).

However, as Uganda evinces, such an implicit 'social contract'[12] can deteriorate
due to underlying political tensions. Under Museveni's government since 1986,
Uganda has made considerable economic and social progress; and social rights
outside the conflict-ridden areas in the north have clearly been improved.
However, the president's commitment to development has seen as waning in
recent years; and the problems in the north of the country have remained
unsolved. In early 2006, the first multi-party presidential and parliamentary
elections in 25 years were held; but the governing party abused the rights of the
political opposition and changed the constitution so as to allow the president to
run for a third term. In the absence of respect for political and civil rights, it is
difficult to ascertain whether there is national or citizen-based ownership of
government development agendas in the face of a crumbling social contract.
Furthermore, whilst Uganda is highly aid dependent (around half the annual
budget is financed by aid); there is a lack of consensus amongst the
development and diplomatic community about how to address human rights
(and wider governance) concerns, in particular related to the conflict in the
northern part of the country. Thus, particularly in type 2 countries, donors
generally engage relatively little with HR directly.

The evidence suggests that ownership may work well in more or less
consolidated democratic systems (e.g. Mali) that produce reasonably secure
governments; while it will be most problematic in countries with uncertain
regimes where political elites are engaged in a constant struggle for survival –
undermining coordination of national policies and the integrity of PFM systems,
efforts at aid coordination, and disregarding HR when these stand in the way of
political survival.

The tension between ownership and potential state capture and rent-seeking
was highlighted by the recent struggle between the World Bank and Chad. The
World Bank (including its private sector branch, the IFC) had contributed
substantial loans to the construction of a major oil pipeline, in return for an
agreement that there would be a high level of transparency about how oil
revenue would be used; and that 85 per cent of revenues would be used for
poverty reduction. Royalties by oil companies were paid into a special fund in
London, rather than into the government treasury. The World Bank's policy was
guided by the fact that resource rich countries are particularly prone to state
capture; and as a consequence often fail to develop despite considerable wealth
(with Nigeria as a key example). The government rescinded on this agreement in
late 2005, arguing that spill-over from armed conflict in neighbouring Sudan
demanded higher defence spending. The World Bank reacted by suspending all
further loans. Eventually, an agreement was reached in July 2006, according to

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[12] And it is difficult to ascertain the degree of public support for such a social contract in the absence of
political and civil rights.

which a somewhat reduced share of revenue (70 per cent) will be used towards poverty reduction and hence the enhancement of economic and social rights.

5. Concluding remarks and proposals

A human rights perspective can contribute to a richer and more realistic reflection on ownership. On the one hand, it is absolutely essential that donors accept that sustained development can only emerge through domestic commitment and leadership; and that therefore they have to exercise more self-constraint with regard to imposing policies. On the other hand, this should not lead official donors and the wider international aid community to support any incumbent government; and the degree to which governments (dis-)respect human rights is a key criteria in this regard. It must also be recognised that respect for human rights standards and principles is important to the types of process and institutions that are able to generate long-term, sustainable national or citizen-based ownership of development policies. Donors therefore have to strike a careful balance between supporting domestic processes, protecting internationally agreed norms, and avoiding propping up governments that fail to demonstrate a commitment to development objectives.

A solid strategy for helping donors to better define this balance in a harmonised and transparent way could involve using human rights indicators (including social and economic rights) to monitor the ownership commitment. For the moment, it may be premature to seek an inclusion of *binding* HR indicators into the PD; but it could be useful to include an auxiliary indicator to the current indicator no. 1 (an operational development strategy is in place); which would inform the dialogue between donors and the government as well as among aid donors. Including consultation, participation and government legitimacy in some form[13] would be an important step in operationalising national rather than government ownership. Such operationalisation would benefit from intensified international efforts to improve the measurement of human rights and governance, and thus to generate assessments which follow a standardised methodology.[14]

The development of a set of 'good practices' for donors engaged in harmonisation and alignment efforts in the context of deteriorating human rights situations would also be of benefit. The development of clear guidelines identifying the 'red lines' or thresholds should therefore be considered, including mechanisms for the reliable and fair assessment and their relationship to level of

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[13] The current methodology for assessing indicator 1 includes a reference to parliamentary involvement; however, this way of addressing inclusion is rather 'hidden' and would benefit from being strengthened and made more explicit.

[14] This includes the Governance Indicators of the World Bank Institute, the Governance Assessments conducted under UNDP auspices, the International Country Risk Guide and others. There remains a range of problems with these assessments – methodological, coverage, 'legitimacy' – but these are gradually being addressed.

development.[15] In this context, various groups of countries – for example, post-conflict countries – may need to be measured on the same scale but could be expected to fulfil a lower standard than countries with a good degree of political stability and government capacity.

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[15] These types of assessments are already carried out within treaty monitoring bodies taking into consideration state fulfilment of obligations to rights that are immediately realisable and their efforts to move towards the fulfilment of those that are progressively realisable.

Think Piece 2: Alignment

1. What the Paris Declaration says

Alignment requires donors to bring their interventions in line with those of partners countries. The Paris Declaration (PD) refers to alignment both in relation to strategies and policies, as well as systems and procedures. Effective *strategy and policy alignment* demands that donor activities be related to all stages of the national development strategies, encouraging policy dialogue as well as periodic reviews to assess progress. If governments lack sufficient capacity in all stages of the policy cycle, the focus is on creating the space and enabling environment for such capacity to emerge rather than donors acting as substitutes for it. *System alignment* describes the mutual commitments to use and strengthen country's own institutional systems and procedures, with particular reference to public financial management and procurement systems.

The Declaration on alignment places equal emphasis on both the need for donors to align to country policies and systems, on recipient countries to improve these systems through joint commitments to capacity building and support. Donors have targets related to the extent to which: aid flows are aligned to national priorities; they make use of country procurement and financial management systems; untie their aid; and avoid parallel implementation structures. One target also relates to the percent of donor capacity-development support provided through co-ordinated programmes consistent with partners' national development strategies.

2. Main entry points and opportunities

As part of their commitment to align with partners' strategy donors commit to '*draw conditions, whenever possible, from partners' national development strategies*'. These and other conditions would only be included on the basis of sound justification and would be undertaken in a transparent and consultative manner. This is the only reference to be found in the PD to the issue of conditions for aid delivery. Although rather narrowly focused on the national development strategies, this reference to aid conditions provides an entry point to consider the role and potential of human rights in relation to the challenging question of **conditionalities** – and particularly political conditionalities – in aid policies and practice.

Donors already include discussions around human rights in their political dialogue with partner countries and they are also used to establish conditions (see section on 4 on examples, with reference to DFID and The Netherlands approach). They do this both because they believe that it is morally unacceptable to continue to provide aid to governments that are committing, or failing to prevent, serious human rights violations (although it could be argued that different donors view some violations more seriously than others) but also

because they are needed to ensure that aid is utilised for developmental purposes. Although conditionalities have come under criticism in recent years for their ineffectiveness they still constitute one of the main ways in which donors hold partner governments to account. Clearly, certain pre-conditions are demanded by donors in order for alignment to be possible. The Paris Declaration articulates these pre-conditions in two ways: firstly, government policy priorities must be consistent with those of donors. At the very least, this will require a commitment to poverty reduction. Secondly, national systems for expenditure management must meet acceptable standards of transparency and public accountability. These pre-conditions are necessitated by donor accountability to their citizens for the funding they provide (through taxes).

Human rights bring three important dimensions to thinking and practice on conditionalities: firstly it can strengthen donor accountability to citizens of recipient countries by holding their governments to account for commitments made internationally (see Think Piece 5: Mutual Accountability and Think Piece 4: Managing for Results); secondly, commitments articulated in terms of human rights strengthens *country* ownership of policies and related actions as opposed to *government* ownership (see Think Piece 1: Ownership). Most importantly, it could expand the current focus of the Paris Declaration from how aid is *delivered* via public financial management systems to how it is *used*. Finally, conditionalities based on human rights would also point the need for indicators and targets related not only to measuring public finance reform but public sector reform more generally which reflect state capacity to manage aid effectively.

Despite this potential, it should be recognised that often human rights have been used by donors as conditions for aid delivery, leading to high unpredictability of aid flows and other major shortcomings (see section 4 on examples). The failure of such a 'traditional' (and donor driven) approach to conditionalities calls for a more sophisticated approach to the use of conditionalities – what has been called a 'post-conditionality' approach (Uvin, cited in OECD, 2006) – which moves away from only using a 'stick' to try to bring about changes in behaviour and is instead based on long-term dialogue, including discussion about the positive support that is required to enable partner countries to meet any conditions, and on processes for establishing mutual accountability. Viewed in this way, harmonised dialogue and conditionality can support donor commitments to align with partner country systems and to strengthen these where appropriate. There is also a strong convergence between the underlying logic of the Paris Declaration and human rights thinking around the need to strengthen the ability and willingness of duty-bearers – in particular the state – to meet their obligations, as well the strengthening the capacity of rights-holders to demand their rights.

The issue of human rights and conditionalities raises another important question in relation to alignment. The PD recognises that in order for donors and partners to align their strategies and policies all the institutions involved need to strengthen their **capacity** to meet the emerging challenges. The PD recognises that the primary responsibility for strengthening institutional capacity rests with

partner countries, supported by donors through financial means and technical assistance. The chapter on capacity development is quite broad in nature, referring not only to technical analysis, but also to the need to be responsive to the broader social, political and economic environment. This provides an entry point to ensure that human rights and related activities are taken into account in supporting capacity development in partner countries. This is all the more crucial since the more specific chapters on capacity only make explicit reference to financial management and national procurement systems. Once again this is an area where the PD has a rather narrow and technocratic focus that human rights thinking and practice could broaden to include all the relevant areas and institutions (see Think Piece 1: Ownership) where better capacity is needed to deliver developmental results (e.g. social and basic services, judiciaries, parliaments etc.). From a human rights perspective, the selection of the relevant institutions should not be confined to pre-determined categories, but should be based on the identification of the main duty bearers with obligations for the different categories of rights. While the principal duty-bearer under international law is the State and public sector agencies, capacity building efforts should also include other actors such as the media, the business community etc.

The broader focus on rights and institutional capacity is also crucial to support the 'sophisticated' approach to conditionalities, which will require all institutions involved to engage in long term and complex policy dialogue, including the various forms of support needed to sustain such dialogue and minimise the risk of failing to meet the agreed conditions.

In conclusion, donor alignment with government systems in practice remains slow. This is because decisions by donors to align are not only based on the health of public financial management systems but are implicitly determined by a host of complex political factors and the quality of governance in recipient countries. The Paris Declaration interpretation of conditions necessary for alignment is therefore considerably narrow in scope. Viewing conditions through a human rights optic would make donor motivations more explicit to recipient countries and the alignment process more realistic. An approach based on dialogue with clear agendas; communication and consistency can then be formulated – the best way forward for alignment to be implemented.

3. Risks and challenges

Donors and recipient countries broadly share similar perspectives on both the definition of reliable public financial management systems and the actions required to get such systems in place. This is reflected for example recently, in the wide endorsement of the Public Expenditure Financial Accountability (PEFA) methodology for assessing public financial management systems. Perspectives on both the definition of a capable or *developmental state* and on the steps needed to create such a state differ widely both within donors and between donors and recipient countries. Reaching consensus on such issues so conditions necessary for alignment can be based on better governance can stall

the drive for alignment. Simply focussing on public financial management systems, although not sufficient, may be a useful area for donors to start aligning with recipient governments.

In relation to conditionalities, the proposed approach based on long term dialogue based on explicit agreements regarding which rights will form the basis of conditions and in what circumstances violations will lead to aid suspension, should go someway in mitigating the risk of lack of reliability and predictability of aid flows often associated with the use of political conditionalities.

4. Some examples

A number of donors currently base their development partnerships on human rights conditionalities:

- Since 1992, the *European Union* has included an 'essential elements' clause in all its new agreements stipulating that relations will be based on respect for human rights and democratic principles. The EU's current partnership agreement with the African, Caribbean and Pacific countries – the 2003 Cotonou Agreement – includes both human rights, democracy and the rule of law as essential elements and good governance as a fundamental element. Its definition of human rights is based directly on the international human rights framework. These clauses apply equally to all parties to the agreement and failure to meet them can result in a consultation process being initiated to determine measures that should be taken to remedy the situation and, if a solution is not arrived at, 'appropriate measures' may be taken, which, in extreme cases, can mean the suspension of co-operation (O'Neil, 2004).
- Whilst stressing its commitment to promoting national ownership, DFID's recent policy paper, *Partnerships for Poverty Reduction: Rethinking Conditionality* (DFID, 2005), states that an effective aid partnership is one based on a certain shared commitments, including respect for human rights and other international obligations, as well as the reduction of poverty/achievement of the Millennium Development Goals (MDGs) and strengthening financial management and accountability. Benchmarks should be established to assess progress in these areas, drawn, where possible, from the national poverty reduction strategy. Significant failure to meet commitments in any of the three bases of the partnership can lead to an interruption or suspension of aid. The paper also commits DFID to improve aid harmonisation and to limit the overall burden of conditionality.
- The Netherlands' track record framework is used to assess the level of alignment that can be achieved and the most appropriate aid modalities given a specific country context. This mandatory analysis is part of the annual planning and reporting process and human rights are considered under the 'basic conditions for good governance' category and are based on the World Bank Institute's governance indicators (OECD, 2006).

Generally, a structured, and frank dialogue on HR abuses – and one which is initiated at an early stage of problems – is preferable to a somewhat arbitrary on-off-on switching of aid, and switching between modalities. However, donors need a credible threat that they can suspend the principles of ownership and alignment in certain situations in order to credibly engage in such a dialogue.

A recent example of the challenges posed in the context of ownership and the Harmonization and Alignment agenda were the human rights abuses committed in Ethiopia – one of the biggest aid recipient countries in Africa – in spring 2006; while Uganda provides a further example with regard to the wider governance agenda. In the case of UK assistance to Ethiopia, general budget support was curtailed and shifted towards sectorally targeted aid (targeted at maintaining and expanding basic services, such as primary schooling, basic health care, water supply and sanitation, and agricultural extension and improving the food supply).[16] Thus, the principle of ownership and alignment were partially suspended (although the sector areas which were pursued further are in principle in line with the government's priorities). The World Bank similarly first suspended aid and the resumed it five months later, while indicating that it would seek to bypass government.[17]

The EU as a key multilateral donor, has made relatively strong formal commitments to the promotion of human rights in all its foreign policy relations.[18] In general, it prefers to do so through 'positive' rather than 'punitive' measures, such as institutionalised political dialogue (e.g. twice-yearly in with the Vietnamese government). Direct assistance, provided primarily through the European Initiative for Democracy and Human Rights (EIDHR), is largely focused on strengthening civil society, including human rights advocacy groups.

5. Concluding remarks and proposals

Opportunities should be explored to develop the long term political dialogue needed to move towards a more positive approach to conditionalities ('post conditionality', Uvin 2005). Again Joint Assistance Strategy (JAS) and United Nations Development Assistance Framework (UNDAF) processes at the national levels could provide concrete opportunities for such dialogue to take place, although it should be acknowledged that these may vary considerably in different countries. The experiences to date of using human rights principles and standards as a basis for political conditionalities should be reviewed, with a view to provide guiding principles as to what facilitates or hinders an open and transparent dialogue on 'positive' and constructive use of human rights as basic conditions for effective aid management and use.

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[16] See Written Ministerial Statement, UK assistance to Ethiopia
[17] Washington Post, May 26, 2006: World Bank Resumes Ethiopian Assistance.
[18] See also the EU's Communications on the EU's Role in Promoting Human Rights and Democratisation in Third Countries (2001),
http://ec.europa.eu/comm/external_relations/human_rights/doc/com01_252_en.pdf, and on Governance and Development (2003), http://europa.eu.int/eur-lex/en/com/cnc/2003/com2003_0615en01.pdf

Capacity of the state and more generally of all the institutions involved in such long term political dialogue is therefore key, as is the quality of policy processes at national level (see Think Piece 1: Ownership). It will be important that in the implementation of the PD and particularly in the way in which it will translate into policy and strategy processes at the national level, these principles are seen as complementary and reinforcing one another, rather than as separate commitments covered in different chapters of the PD.

Finally, if donors and partner agree on human rights as conditions for aid, it will be vital that they will jointly commit to support human rights initiatives and capacity development in different sectors as key areas of investment for aid resources.

Think Piece 3: Harmonisation

1. Introduction: What the Paris Declaration says

Harmonisation refers to the increased co-ordination and streamlining of activities of different aid agencies, with the aim of reducing the transaction costs to governments receiving aid. The need to harmonise donor activities in developing countries has been evident for some time and the commitment to harmonise has a central place in the Paris Declaration (PD) on Aid Effectiveness. The PD has brought attention to donor behaviour as a major determinant of aid effectiveness and includes formal commitments by OECD member states to a number of indicators and targets, including two relating specifically to harmonisation.

The PD envisages that harmonisation involves change in four main areas:

- the development of common arrangements for planning, managing and delivering aid;
- the reduction of agency-specific procedures and requirements with regard to reporting, procurement and financial management;
- the identification of donors' comparative advantage as a basis for complementarity;
- the sharing of information in order to promote transparency and improve co-ordination.

For harmonisation to take place across these areas and operational levels, the PD places emphasis on the need for improvements in incentive structures to induce organisational change. Donor harmonisation is considered all the more crucial in the context of **fragile states,** where the PD states that there is a need for donors to focus on upstream analysis, joint assessments and strategies, use of joint offices and co-ordination of political engagement. Partner governments with weak capacity and ownership commit to making progress towards building national institutions and governance structures and donors working in these environments commit to not undertaking activities that undermine these efforts.

2. Main entry points and opportunities

There are a number of clear entry points where human rights are able to contribute to the commitment to harmonise donor activities, all based on the premise that the human rights framework, principles and standards can be a useful starting point for setting common priorities as a basis for harmonisation.

Before considering the specific entry points for human rights in relation to the harmonisation commitment, it is important to emphasise that, whilst the vision of the Paris Declaration is clearly dependent on donor efforts to harmonise, like all the PD commitments, harmonisation should not be viewed as constituting an

end in itself. The rationale for donors to work together to develop common arrangements, and for these to be aligned with partner countries' own priorities and systems through the development of common frameworks, is that it is this is thought to be the most effective strategy for strengthening, and not undermining, national ownership and results-oriented management of development processes, which in turn are argued to be pivotal to increasing the effectiveness of aid in terms of resulting in desired outcomes.

The central premise for harmonisation is the identification of sufficient priorities, procedures, arrangements and, crucially, incentives for donors to behave more collaboratively. This poses a number of challenges at different levels, particularly in relation to donor agencies and partner countries agreeing on the substantive priorities to be addressed, the conceptual frameworks and methods to be employed and the sequencing of activities. The **international human rights framework** can provide a unique starting point for such discussions for a number of reasons. Firstly, it is comprehensive, covering the range of social, economic and political processes that constitute development. Secondly, it combines both legal authority and political legitimacy. The international human rights instruments have been internationally negotiated and agreed and are voluntarily entered into. Therefore, unlike many purely political commitments, they are binding on the state rather than a particular government. Thirdly, nearly all countries have signed up to at least some of the seven core international human rights treaties[19] and 80% of donor and partner countries have ratified four or more.

The consensus and legitimacy derived from the human rights normative framework are also reflected in the **positions and operational choices** taken by donor agencies.[20] Most have now adopted a human rights policy statement, recognising their moral legitimacy, the obligations that emanate from them for both donors and partner countries and their instrumental and empirical value for achieving a range of development objectives and outcomes. Human rights have also been enshrined in the constitutions, legislation and policies of partner countries and, in some cases, have been integrated into national poverty reduction strategies. Human rights standards and principles can therefore provide a basis for joint donor dialogue with partner countries in order to establish priorities for harmonisation and collaborative efforts, as well conditions for mutual accountability (see Think Piece 5: Mutual Accountability). They can also be used to as a means to establish priorities for partner countries and joint programming, such as by identifying the support that partner countries need to assist them in meeting their obligations and achieving desired

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[19] These are the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), the Convention on the Elimination of All Forms of Discrimination Against Women (1979), the International Convention on the Elimination of Racial Discrimination (1965), the Convention on the Rights of the Child (1989), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990).

[20] This consensus is also reflected in the resolution adopted by the UN General Assembly following from the 2005 World Summit which commits member states to integrate the promotion and protection of human rights in national policies (UN, 2005: para 146).

development results, which is particularly pertinent in the context of fragile states.

Two perhaps less obvious, but equally important, areas where human rights could strengthen the harmonisation commitment of the PD are the delivery of effective aid in fragile states and prioritisation for more effective division of labour. The PD notes that it is even more important for donors to harmonise their activities when working within **fragile states**. The relevance of human rights in such environments is often questioned because the state – the main duty-bearer – either lacks the capacity to meets its obligations or is unwilling to do so. However, as acknowledged by the OECD (2006), there is in fact an implicit human rights justification for working in fragile states, precisely because of the systemic denial of human rights that usually occurs in these environments. Furthermore, human rights can play a key role in the process of building effective state institutions and governance structures envisaged by the PD (see Think Piece 1: Ownership) by helping to identifying core requirements and to prioritise activities, thereby positively supporting fragile states to meet their human rights obligations. This supports the other commitments, such as promoting ownership and increasing the possibility of alignment.

One of the key challenges often associated with the human rights agenda is its broad and universal nature, which is perceived as being too ambitious, particularly in resource-constrained environments. However, it could be argued that poor prioritisation is a general problem in the aid industry and that, although the PD represents a step forward in recognising the need to identify priorities and comparative advantages in order for donors to harmonise more effectively, it does not really provide an operational framework for doing so. Human rights thinking and practice can go some way towards overcoming some of these obstacles to **prioritisation**[21] (see Think Piece 1: Ownership), in particular by:

- establishing general principles to guide collaborative efforts to set priorities (e.g. addressing discrimination and inequality as root causes of poverty);
- selecting specific rights (e.g. access to free primary education) or categories of rights (e.g. civil and political rights) on which donors and partners would concentrate aid efforts on the basis of insufficient progressive realisation or increased violations or where the realisation of particular rights would have significant impact in relation to others;
- establishing minimum standards and criteria for assessing progressive realisation which both parties can agree on and commit to. This would also support more meaningful mutual accountability and a 'benchmark'

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[21] The OHCHR's 'Draft Guidelines on a Human Rights Approach to Poverty Reduction Strategies' describes how human rights standards and principles can be used to guide both the process and substance of prioritisation, including the importance of establishing targets and indicators in order that states can be held accountable for their obligation to progressively realise economic and social rights (OHCHR, 2002: Guideline 4).

for results management (see Think Piece 5: Mutual Accountability and Think Piece 4: Managing for Results).

One way of assessing the benefits of harmonisation is to consider the extent to which it results in improved **political dialogue** and the agreement of common conditions for aid delivery and utilisation, including in relation to human rights. The evidence suggests that conditionality, and particularly political conditionality, has not been effective in most cases. Donor harmonisation can potentially improve this situation, both by minimising the number of conditions a partner country needs to operate within and by increasing coordinated donor action, which evidence suggests increases the effectiveness of conditionality.

Finally, it should be recognised that efforts to harmonise could be perceived as militating against the realisation of national ownership. A unified group of donors could further increase the power balance between donors and recipient countries, further reducing the negotiating space of recipients. In particular, this could manifest itself in the negotiation of aid conditions, including those based on human rights. However, as discussed above, there is a normative consensus around human rights and they can therefore provide a starting point for discussions about conditions, how they can be met and processes that will be put in place if they are transgressed, based on agreements that partner countries have voluntarily entered into, rather than being imposed by donors. The international human rights framework also does not specify how state should meet their obligations – although clearly they must do so in a way that does not violate any of the standards or principles – such as the right to non-discrimination, core minimum standards and non-derogable rights – and dialogue can therefore centre on government obligations or functions rather than the forms used to deliver on these.

A final point is that harmonisation efforts can contribute to **strengthening the relationship between state and citizen** envisaged in the mutual accountability commitment. Funding that is pooled and predictable, and which is channelled through central government budgets, allows services to be provided as universal rights, which in turn enables citizens to utilise domestic accountability structures to hold their government to account in relation to this service provision (OECD, 2006). However, it is important to note that the Paris Declaration does not commit donors to specific policy processes or aid modalities.

3. Risks and challenges

Whilst there is normative consensus amongst donors around human rights, there has been a greater degree of variation in how human rights have been integrated into their operational activities, with the spectrum of approaches including those donors who have adopted a human-rights based approach and those who, for a number of reasons, feel unable to work explicitly on human rights but who nonetheless work in areas consistent with human rights, such as the rule of law

or empowerment.[22] However, even in terms of operationalisation, it remains the case that the majority of donors work in similar ways, with most using a mix of approaches that includes dialogue, positive support and discrete projects (OECD, 2006). This assuages the risk that harmonisation of activities will play to the **'lowest common denominator'**, thereby undermining the ability of donors who have committed to using human rights more systematically to define their objectives and ways of working from doing so.

Other factors alleviate this risk further. Firstly, indicators and targets relevant to harmonisation measure progress according to the level of aid harmonised at country levels not according to the level of harmonisation achieved by each donor, allowing greater space for flexibility in donor approaches. Secondly, whilst the Paris Declaration does commit donors to delegate 'where appropriate, authority to lead donors for the execution of programmes, activities and tasks', it also foresees a more effective division of labour between donors, giving partner countries an active role in identifying the comparative advantage of different donors and strategies to ensure complementarity in their activities. This again signals that a harmonised approach need not mean a uniform one. Finally, experience and logic dictates that in reality it will be 'like-minded' donors that come together to develop common arrangements.

Another perceived risk to human rights posed by the commitment to harmonise is that this will result in **increased use of programmatic aid modalities** (such as general budget support or sector-wide approaches), which will curtail the amount of funding that is channelled through non-governmental organisations and more generally to community-based groups. This is a concern for two reasons. Firstly, the majority of human rights activities continue to be discrete projects, often in the form of funding for civil society organisations working on human rights issues (OECD, 2006). Secondly, a central premise of the human rights construction is that it is necessary to not only support the capacity of the state to meet its obligations but also, and crucially, to deepen citizen's awareness of their rights and to strengthen their capacity to demand them. Whilst this concern is therefore real, it is perhaps not as pressing as first thought. As has already been noted, the PD does not specify the use of particular aid modalities and the reality is that programmatic forms of aid only constitute the main instrument in a few countries. It is both practical and desirable that a mix of aid instruments will continue to be used for the foreseeable future.

Furthermore, even when programmatic aid is the chosen modality, this is not necessarily at odds with human rights objectives. As discussed above, such forms of aid can strengthen the ability of citizens to hold their government to account in relation to the provision of rights and services. Programmatic aid can also be provided in ways that are consistent with human rights principles and standards. An example of this is sector-wide approaches to the justice sector, such as DFID's 'Safety, Security and Access to Justice' Programmes, which place the human being and their experience of the justice sector at the centre of

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[22] See recent Legal Opinion of Human Rights and the work of the World Bank by the General Counsel, January 2006

programming and which uses a system-wide perspective to analyse the inter-linkages between (formal and informal) institutions, paying attention to how the ability of poor people to seek justice relates to the capacity of the state to provide it.

4. Some examples

This section provides some concrete examples to illustrate some of the issues and opportunities described in the above discussion.

Sida's position paper on Poverty Reduction Strategies (PRSs) (Sida, 2005) was drafted after the Paris Declaration and is explicitly set within the context of its commitments. It demonstrates that it is possible for donors to move forward with their commitment to greater harmonisation without abandoning their own priorities, including to human rights. The paper states that a country's poverty reduction strategy will provide the starting point for Sida cooperation and that Sida will aim for maximum alignment behind a PRS but that the degree of alignment achieved will depend on the specific situation of the country. Whilst maintaining the need for a Swedish perspective, based on the Swedish governments legislative obligations established in the Swedish Policy for Global Development, which includes a commitment to apply a rights-based perspective to Sweden's overseas activities, the paper also suggests that Sida's assessments of the PRS should be carried out, as much as possible, jointly or in close coordination with the partner country and with other donors. The key issue for Sida in its assessment of the PRS is whether the government is accountable to its citizens for its implementation and, where Sida's assessment differs markedly from other assessment, the reasons for this should be made explicit. The paper suggests that, in cases where Sida concludes that there are serious insufficiencies in a country's PRS, a possible cause of action is to agree with the government to improvements along with other like-minded donors.

Dialogue plays a central role in Swedish development cooperation. It establishes that Sweden's partnerships are based on those human rights conventions that both parties have ratified (OECD, 2006). The position paper acknowledges that the PD has resulted in a changed context for dialogue and that, in future, Sida will mainly carry out dialogue through co-ordinated donor groups which will establish performance-based monitoring and conditions based on the country's poverty reduction strategy. It notes, however, that this does not imply that all donors have identical conditions or issues for dialogue. Rather, it produces an overall framework for donors to choose from. The paper notes that this is an example of where a 'division of labour between donors would be useful'. Where the PRS cannot form the basis for discussions on issues that Sida deems essential – in particular, human rights, democracy, peace and security – it is suggested that dialogue can be conducted on the basis of 'international conventions or jointly agreed benchmarks outside the PRS'.

Joint Assistance Strategies (JAS), under development in Tanzania and Zambia and already in place in Uganda, are a particular example of the harmonised donor approaches and actions envisaged by the PD. They illustrate how donors can adopt roles according to their comparative advantages and agendas, and their continuing ability to prioritise. However, as noted by Gaynor (2006) in relation to gender, the sectoral focus favoured in the JAS approach thus far could pose a risk to cross-cutting issues, including human rights.

As observed above, there is a perception that a move to more harmonised approach will result in greater reliance on more programmatic modalities. **DFID Malawi**'s portfolio of work demonstrates that donors can move forward with the harmonisation agenda in a way that continues to support both promotion and integration of human rights, including through support to civil society and more programmatic modalities:

- *Projects funded with other donors:* co-funded support to civil society and parliamentary committees with USAID and DANIDA, which has required DFID to harmonise procedures;
- *Projects funded 'through' other donors:* DFID's funding to the Tikambirane Voice and Accountability Programme adds resources to existing USAID and CIDA activities;
- *Civil society support fund:* for example TRANSFORM which is followed by a new multi-donor approach to civil society.
- *Good Governance Fund:* small grants through the High Commission to respond to a changing environment as well as to make DFID more responsive (Piron and Watkins, 2004);
- *Direct budget support:* potential discussion on how such support can be related to progress on human rights, for instance the conducting of free and fair elections;
- *Relevant sector support:* the Malawi Safety Security and Access to Justice (MaSSAJ) programme is one of DFID's largest justice sector reform programmes which works mainly with government bodies, but also undertakes research and works with civil society and community-based 'primary justice' providers;
- *Pilot initiatives to influence sector-wide approaches (SWAps):* for example, the Local Initiatives for Health project aims to pilot participatory approaches to influence the health SWAp by providing mechanisms to give voice to the priorities of the rural poor and promote grassroots accountability mechanisms;

5. Concluding remarks and proposals

The above discussion illustrates that a human rights perspective can make a valuable contribution to the harmonisation agenda. The political legitimacy, comprehensiveness and legal force of the human rights framework makes it an important platform for establishing the common framework called for in the PD and can form the basis for prioritising actions and establishing conditions in a

manner which contributes to the high-level objectives of national ownership, mutual accountability of the state to its citizens and result-oriented development processes.

As noted in Think Piece 1: Ownership and Think Piece 5: Mutual Accountability, it is important that donors improve conditionality processes, including those relating to human rights, through the agreement of transparent and common 'bottom-lines' and the development of mechanism/guidelines for responding to transgressions in a predictable manner. The principle of progressive realisation of social and economic rights can strengthen the poor mechanisms for prioritisation found within the aid community, and reflected in the PD, by providing a framework for identifying where progress is required for the realisation of individual rights within resource-constrained environments and establishing explicit plans, targets and indicators for moving towards this. Interestingly, it may be in relation to working in fragile states that human rights have the most to offer in terms of setting priorities. Human rights indicators can be used to establish whether states are meeting their core responsibilities (non-derogable and immediately realisable rights and core minimum standards) and what support is required for them to do this, as well as how they can progressively realise a broader range of economic and social rights.

As suggested by Gaynor (2006), cross-cutting issues are represented in efforts to move forward with harmonisation such as Joint Assistance. Although not consistent in all countries implementation, the UN Common Country Assessment (CCA)-Development Assistance Framework (UNDAF) process could serve as example, as they are intended to ensure that the UN agencies work together in a harmonised way that builds on the UN and each agencies comparative advantage in supporting national priorities and results-oriented development. In accordance with the UN Common Understanding on Human Rights Based Approaches, the systematic integration of human rights in UN programming/rights-based approach is also one of UNDAF guiding principles.

Think Piece 4: Managing for Results

1. Introduction: What the Paris Declaration says

Managing for Results (MFR) is about promoting a results-oriented approach in aid relationships. Recipient countries are expected to improve the linkages between planning and budgeting, and to put in place assessment frameworks and information systems that allow for tracking results-based indicators. Donors, on the other hand, are expected to align with recipient countries' monitoring and evaluation systems, avoiding additional and parallel reporting and strengthening their capacity for results-based management.

Clearly, the MFR dimension cuts across all other commitments of the Paris Declaration (PD) as the need for reliable information systems for monitoring results is key for the effective implementation of the PD as a whole. However, from a human rights perspective, timely, transparent and accurate information is particularly vital for turning the Mutual Accountability commitment into a reality. A clear focus on results, and systems that allow for the effective tracking of progress, are key components of all three accountability relations described in the Think Piece 5: Mutual Accountablity. In some countries this can be particularly challenging in relation to systems for strengthening domestic accountability which are often overlooked by international aid agreements and relations which tend to prioritise the 'recipient-donor relationship as the focus of most monitoring systems.

2. Main entry points and opportunities

There are two main entry points from a human rights perspective in relation to MFR: first of all, human rights (HR) principles and standards can be used to define the results to be achieved and the strategies needed to achieve them. The PD does not mention any substantive goals beyond those specifically linked to aid effectiveness, leaving open the question of what aid effectiveness is actually meant to deliver. While the MDGs have been generally adopted as the yardstick for defining the more specific long-term objectives of the aid enterprise, a formulation of the end objectives in terms of human rights realisation could help to broaden the sets of results that more effective aid delivery modalities are supposed to help achieve.

Secondly, human rights thinking and practice could be helpful for broadening the traditional top down and technical approach to monitoring, mostly confined to financial information to be made available by recipient countries to donors to fulfil their accountability commitment. From a human rights perspective, making accurate information available to individuals is key for supporting them to claim their rights (see MKSS example in framework paper) and to hold government to account. Transparency and the right to information are key elements of a human rights approach to MFR.

This is another area in which human rights norms, analysis and practice have the potential to contribute to solving a real problem in the Paris framework. Results monitoring systems that put the accent on results-as-rights or results-which-are-rights might be more successful in mobilising domestic pressures for better performance than systems that use the dry and technical language of the monitoring and evaluation business. It is at least a plausible hypothesis that civil society organisations that campaign on rights have stronger roots in the country and more mobilisation capacity than those that merely deal in policy dialogue and development advocacy. To the extent that this is true, injecting a stronger rights element into Managing for Results may be a means of reconciling it with domestic accountability and ownership.

Finally, there is no inherent conflict between Results Based Management (RBM) and human rights based approaches (HRBAs). On the contrary, a targeted, tailored and contextualised set of objectives based on economic, social and cultural rights could better define the 'content' of desirable development results and a focus on civil and political rights linked to transparency and participation could help improve the 'process' through which monitoring of progress should take place.

3. Risks and challenges

As for other commitments, the main risk of adopting a HR perspective on MFR is related to the perceived broad range of human rights objectives that a government is supposed to fulfil and monitor may put enormous pressure on limited government capacity. However, it is important to remember that human rights obligations under international law require no more than reasonable efforts within the framework of available resources.

Another area of possible tension is the fact that rights monitoring and reporting according to international instruments and mechanisms could further reinforce the view that Management for Results is essentially aimed at fulfilling the accountability of the partner countries to the international community, by adding more external agencies (i.e. the treaty bodies) to the plethora of actors to which partner countries must report to.

4. Some examples

UNIFEM produced a **manual** which tries to reconcile the need for RBM with an approach based on human rights.[23] Crucially, UNIFEM recognises that adopting a human rights-based approach has implications for the way it works as well as what it actually does and thus advocates that, rather than being a technical exercise, results-based management should be empowering and embody the kinds of participatory planning and change that UNIFEM wants to see in society in general. Within this framework, the manual outlines how these considerations

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[23] 'Results-Based Management in UNIFEM: Essential Guide' (2005).

(capacity development, human rights standards and participatory processes) can be applied to the various stages of the programming cycle.

- *Context/situation analysis*: What is the specific right to be furthered? Which capacity gaps on the part of both duty bearers and rights holders need to be filled? What baseline data is necessary?
- *Conceptualising expected results*: What capacities are expected to change and in what timeframe? What processes are necessary to achieve the results? Who is accountable for the results? How is this represented in the programme logframe?
- *Developing rights-based indicators*: How do we measure transformative change? How can we determine indicators that measure improvement in the capacity of duty bearers and rights holders to realise rights that accurately reflect an expected result?
- *Planning for monitoring*: What is the role of the Performance Monitoring Framework? How does this relate to the baseline information identified in the context/situation analysis? How is progress towards capacity development monitored?
- *Reporting results*: How does reporting contribute to ensuring accountability for meeting objectives and to lesson-learning?

Other examples of 'rights based' results management are related to the rapidly developing field of human rights indicators. For example, as a cross-cutting concern for the achievement of all the MDGs, gender equality is not well reflected in the global targets and indicators. The Commission on the Elimination of Discrimination against Women (CEDAW) and the Beijing Platform for Action set further-reaching obligations. In cooperation with Germany's Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung (BMZ) and Deutsche Gesellschaft für Technische Zusammenarbeit (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 has developed right to health indicators (particularly related to maternal health) 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.

5. Concluding remarks and proposals

Managing for results is an area where it is possible to put forward concrete proposals for integrating human rights into the PD implementation. At the

national level, human rights standards and benchmarks could be used not only to guide a political dialogue on the conditions for aid delivery and management, but also to define goals and objectives for both partners and donors, to be jointly monitored and assessed in the context of the PD implementation.

Think Piece 5: Mutual Accountability

1. Introduction: What the Paris Declaration says

This brief think piece looks at the ways in which human rights frameworks and mechanisms can be useful in promoting the Mutual Accountability (MA) component of the aid effectiveness agenda embodied in the Paris Declaration (PD).

The MA component of the PD puts the emphasis on making sure that aid relationships are embedded in accountability mechanisms that guarantee an adequate degree of monitoring of reciprocal commitments, in order to enhance aid effectiveness. On the side of recipient countries, this implies strengthening the role of parliaments and reinforcing participatory approaches to policy making, monitoring and implementation. On the side of donors, it focuses on the transparency and comprehensiveness of information on aid flows. The reciprocal commitment is that of instituting country-level mechanisms for assessing the progress of both parties in living up to the spirit of the Paris Declaration and its various components.

The governance agenda underlying this commitment assumes that the provision of more and better information by donors on aid policies and programmes, coupled with improved mechanisms for democratic domestic accountability (through parliaments and civil society participation) will bring a greater focus on the development effectiveness of aid flows, which in turn needs to be rooted in clear and monitorable results frameworks, which allow both for donor alignment and for strengthened domestic demand for development performance.

2. Main entry points and opportunities

Figure 1 below gives a very simplified graphic description of some of the main accountability structures at play in aid relationships, which include the ones highlighted in the MA component of the Paris Declaration. It shows how, in many aid-dependent countries, strong accountability (solid lines) for the use of aid funds goes from recipient governments to donor agencies, and from donor agencies to donor country parliaments and citizens. Interestingly, the Paris Declaration makes little mention of recipients' domestic accountability, while this is recognised as one of the main obstacles in achieving a higher degree of 'downward' accountability in aid relationships.

Figure 1. Main accountability structures in aid relationships
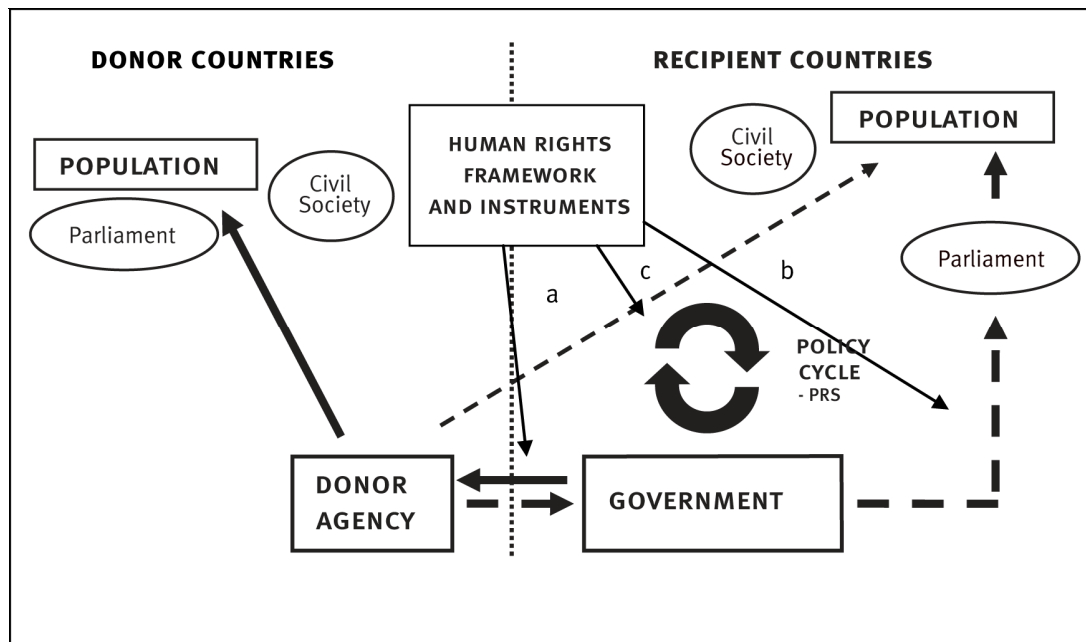
The accountability of donor agencies to recipient governments, and of recipient governments to their citizens is much weaker (dotted lines). But possibly, the weakest accountability chain is that between donor agencies and recipient countries' citizens, whose wellbeing represents (or should represent) the ultimate objective of aid provided by donor agencies. Donor agencies mostly rely on recipient governments as intermediaries who utilise aid funds to deliver services and improve the wellbeing of the population. Ensuring the effectiveness of this implementation channel is the key focus of the managing for results (MFR) agenda.

In the Framework Paper we argued that human rights frameworks and instruments can provide a common framework and normative base for dialogue between donors and recipient countries about all five PD commitments, including the agreement of common standards and 'bottom-lines'. Human rights can be particularly useful for unpacking and interpreting the significance and reach of the different elements of the mutual accountability commitment, thus strengthening its implementation. The fact that most donor and recipient countries have signed up to universal human rights declarations and conventions, – and have therefore undertaken to realise and enforce them within their territories and use them as a basis for defining development policies, represents a unique opportunity for framing the concept of MA based on principles and standards mutually agreed within an internationally recognised normative framework. At the operational level, a number of donor agencies have adopted Human Rights Based Approaches (HRBAs) (see OECD, 2006), and many national constitutions in developing countries enshrine human rights as guiding principles of state policy as well as enforceable claims.

Figure 1 can be used as a basis to identify the three main areas that deserve attention in framing the role that human rights can play in deepening the significance of mutual accountability. These are:

- Accountability of recipient governments to donors;
- Accountability of recipient governments to their citizens and parliaments;
- Accountability of donors to recipient governments and beneficiaries in general.

2.1 Accountability of recipient governments to donors

Historically, this has been the strongest accountability link in aid relationships, especially in aid-dependent countries. Donors have held recipient governments accountable for how aid money was spent, often attaching specific conditions to their development assistance. While during the era of structural adjustment such conditionalities were linked to economic policy reforms, in recent years (mostly after the end of the Cold War) governance reforms have become much more prominent, including conditions related to the upholding of human rights principles and practices. One of the more recent examples of this trend is the reduction or suspension of budget support to countries such as Ethiopia, Chad, Uzbekistan, Cambodia and Uganda, for alleged human rights abuses.

While conditionalities have come under repeated criticism for their lack of effectiveness and for the fact that they constitute an 'infringement of sovereignty', it can be argued that using them to ensure that recipient countries uphold the human rights principles that they have committed to in the context of international conventions and treaties is a way of strengthening the mutual accountability equation, both at the international and at the domestic level. Human rights commitments could therefore provide a more solid basis and clarify the content of some of the 'reciprocal commitments' referred to in the Paris Declaration, moving beyond the narrow focus on 'aid administration'.

The design, use and impact of conditionalities based on human rights principles, in turn, will depend crucially on the quality of the dialogue between donors and recipient governments, and on the collaboration amongst donors. Process, in this sense, is therefore more important than content. Good channels for dialogue on human rights issues, involving relevant actors on the recipient government side, should take precedence over the definition of elaborate conditionality frameworks. On the basis of this, however, donors need to move beyond broad statements in support of human rights, and start to define more precisely at country level the areas of particular concern which could give rise to human rights 'incidents'. Scenario planning exercises could be useful to assess the risk levels for each area, with the definition of 'inner' and 'outer' boundaries of acceptable behaviour and the definition of the reactions that human rights incidents would trigger.

2.2 Accountability of recipient governments to their citizens (and parliaments)

Strengthening the accountability of recipient governments to their own citizens and parliaments is a key component of any long-term, sustainable solutions to poverty and aid dependence, including the realisation of human rights, be it in the form of the Millennium Development Goals or any other chosen formulation. Strengthening domestic accountability is therefore inextricably linked to human rights realisation, and it is fully congruent with the relationship envisaged in the human right framework between rights-holders and duty-bearers. However, in many countries this has been quite an elusive element of the mutual accountability agenda.

There are number of ways in which human rights can be understood as contributing to strengthened domestic accountability. Firstly, accountability lies at the centre of the human rights construction: the idea that an individual has a right and that a corresponding agency can be held accountable for realising this right and that mechanisms of redress must be provided.

Secondly, the universalism that underlies human rights not only dictates that all people have human rights by virtue of their humanity but, combined with the provision relating to the rule of law, suggests that no-one is above the law and therefore no-one can act with impunity.

Thirdly, individual human rights are vital to the exercise of effective horizontal and vertical accountability mechanisms within any society. These of course relate to one of the most fundamental ways in which governments can be held to account – the right to vote to both choose representatives and to remove them from office – but also includes other civil and political rights such as those relating to the rule of law/justice system, freedom of expression and organisation and the right to information, and also those economic and social rights that are fundamental to an active citizenry such as the right to education and health.

Fourthly, responsibilities as well as rights have implications for effective accountability. Historically, taxation has been a key driver in the development of the social contract between state and citizen and in the development of more robust institutions through which to exercise accountability. The need for the state to mobilise the human and material resources within their territory, usually in order to defend or expand their borders, has played a fundamental role in the evolution of citizenship by providing new tax-payers with critical leverage in wresting concessions (including in the form of rights) from the state and enabling them to negotiate and hold their government to account for the way in which their money is spent. This process of bargaining between state and citizen over taxation was also significant in shaping public authority, including systems of representations and public expenditure management (Moore, 2005).

The interdependence of responsibilities and rights is also acknowledged within the human rights framework. The state can only fulfil its legal responsibilities if it has the capacity and willingness to generate the necessary revenues (although not all rights are resource dependent e.g. non-discrimination and to a large extent economic and social rights are required to be realised only progressively, subject to a realistic and transparent assessment of resource constraints.) These lessons are troublesome in many developing country contexts where there is weak revenue generation and collection, where the incentives for strengthening these are undermined by aid and patrimonial and rent-seeking behaviour, and where, therefore, citizens have less leverage for demanding accountability from their government or for negotiating new rights. As argued by Moore (2005), the historically weak link between tax-paying and citizenship in developing countries is reflected in the absence of public debate about the relationship between sources of revenue and expenditure. Of course, in countries where aid is a major source of government revenue, the tendency for the strongest accountability relationship to be that between donor and recipient governments is reinforced.

Fifthly, domestic accountability requires functioning institutions, as well as processes and mechanisms for individuals to be able to claim their rights and actively participate in decision making (see Think Piece 1: Ownership). Such institutions are also necessary to ensure not only that aid is used and managed effectively, but crucially to make sure that this results in development outcomes, including the realisation of human rights. The PD focuses on the institutions responsible for aid administration (see Think Piece 2: Alignment); human rights can be used to extend the debate beyond technical considerations relating to public expenditure and finance institutions. It acknowledges that decisions about the use and distribution of resources are inherently political and these processes therefore involve all institutions such as executives, parliaments and judiciaries as well as financial ones. Public financial institutions/aid administration are in reality embedded within these wider political institutions and ignoring this undermines the implementation of the PD.

2.3 Accountability of donors to recipient governments and beneficiaries in general

A dimension of accountability which has often been overlooked by official donor agencies, especially given the fact that they channel most of their aid funding through governments, is that between donor agencies and their ultimate recipients, i.e. the population of poor countries who is supposed to benefit from their actions. Although it is difficult to achieve this directly, by establishing 'legal' accountability of donor agencies, human rights can be used to establish some common standards and benchmarks with a view to at least better defining this 'missing link'.

There are at least two main reasons for considering the accountability of donor agencies: first, on the grounds of a 'moral' obligation that all parties committed to making aid more effective through the PD should do so with the ultimate aim of achieving development results including the realisation of human rights (see

recent legal opinion of the WB on human rights). Secondly, it could be argued that, although in theory it is developing country governments who should ensure the accountability of donors to their citizens through their management of the aid relationship (as envisaged by the 'ownership' and 'alignment' commitments) and through domestic processes that allow citizens to hold their government to account for their use of donor resources, in practice, this does not reflect either the power relationship between donors and recipients, the range of incentives for providing and accepting aid or the weak accountability that usually exists in developing countries between the executive and electorate. From this perspective, some form of direct accountability between donor agencies and recipients countries' citizens could contribute to strengthening domestic accountability, address the power imbalance of donor countries and give more 'voice' to the recipients.

Another avenue worth exploring for improving the accountability of donor countries is through their own domestic accountability mechanisms and more generally the expectations of their citizens in relation to how aid is spent and delivered. Evidence suggests that, in the UK at least, foreign policy and aid issues are not given much weight by voters during elections. However, other opportunities for influencing policy processes exist, as demonstrated by recent high-profile campaigns (Jubilee 2000, Make Poverty History). Human rights can be used as tool with which interests group can assess and monitor the effectiveness of their government's development assistance. It can also be used by parliamentarians to hold the executive to account for resource allocations. Additionally, there are possibilities for human rights to be used directly to challenge the way in which aid is used through the courts (e.g. Pergau Dam Case) (Davies in O'Neil, 2006).

Operationally, human rights based approaches (HRBAs) have been one of the responses of donor agencies attempting to frame their intervention in a way that allows them to respond more directly to the needs and rights of beneficiary populations, rather than leaving the responsibility for human rights realisation to recipient governments. Other, more provocative, proposals have included the use of aid funding for providing basic income grants to citizens of poor countries, or distributing 'aid vouchers' so that they can choose directly the services they most need and the service providers who can best deliver.

3. Risks and challenges

At the moment, the Paris Declaration is formulated in a very narrow way, focusing on a limited set of specific commitments, mostly dealing with 'aid administration' and 'aid delivery'. Monitoring the Declaration indicators, in this context, is likely to be limited to a 'ticking boxes' exercise, with little attention given to the more important underlying issues, including the ultimate goal of development assistance, which is intimately linked to the realisation of human rights. At the moment, the main risk is that the scope of the monitoring process will be too limited to include some of the broader considerations presented

above. Its focus on short-term targets may also undermine the long-term nature of human rights objectives.

Another risk is that the follow-up process to the Paris Declaration will continue to reflect the imbalance in power relations between donors and recipient countries. At the moment, mutual accountability mechanisms are weak at international level, and do not allow recipient governments to deal with donors on an equal basis, potentially undermining their capacity to respond to broader agendas including human rights perspectives. The challenge of shifting accountability downwards is a real one, especially in countries where donors are not confident that domestic systems and institutions adequately respond to their own domestic accountability pressures.

At the same time, the adoption of a human rights perspective on MA and MFR could lead to unintended consequences. Firstly, it could lead to a strict definition of the human rights conditions that any recipient country needs to fulfil in order to qualify for aid, or to continue receiving aid. Such kind of conditionality may prevent poor people from having access to the resources and services that they need to realise some of their other basic human rights. Secondly, while keeping in mind the fact that the ultimate goal of development assistance is that of improving the living standards of the populations in developing countries, using human rights arguments to by-pass the role of governments can prove to be a short-sighted solution, as highlighted in the case of Zimbabwe below.

4. Some examples

There are a number of examples which illustrate some of the opportunities and challenges described above.

The **Cotonou Agreement** regulates aid and trade issues between the EU and ACP countries in a 'compact' which emphasises equality, ownership, mutual obligations and dialogue. It contains a specific mention of human rights and corruption as two of the main concerns that can call into question the provision of development assistance. Despite such emphasis, power imbalance and asymmetry of enforcement mechanisms remain embedded in the Agreement. ACP states can voice their concerns in joint institutions, but in reality they do not have any sanction mechanism to hold the EU to account, while the EU can always decide to withhold aid, and has done so on several occasions. Nor is there any independent monitoring process in place.

More recently, **DFID** approved a new **policy on conditionality** which identifies the 'respect for human rights and other international obligations', alongside good financial management and a commitment to poverty reduction, as the only three criteria that DFID will look at when taking decisions about providing aid to poor countries. The guidance provided on the implementation of the new policy goes into some detail in defining how a country's commitment to human rights can be assessed and upheld in aid negotiations. In the recent case of Ethiopia, it

was interesting to see how the UK Government dealt with the contradiction between upholding the principle that the civil and political rights of protesters should be respected, and ensuring that withdrawing aid did not impinge on the progressive realisation of economic and social rights of aid beneficiaries. It was decided that funds for general budget support would be diverted for local-level programmes aimed at poverty reduction. Clearly, this is a difficult balance to strike. Donors could decide to completely by-pass governments in extreme situations (such as Zimbabwe, where the majority of donors now only channels aid through humanitarian organisations and NGOs), but such a choice comes at the cost of potentially undermining the long-term sustainability of efforts to progressively realise ESC rights, as governments will always play an important role in the long term.

In a number of cases, local actors have used human rights arguments to hold their governments accountable for their promises and commitments. Some examples include:

- In Brazil, while the government had to enact 'fiscal responsibility legislation' as part of its programme with the IMF/WB, which forced it to give debt repayments priority over any other category of expenditure, a group of NGOs is promoting so-called **'social responsibility legislation'**, which is meant to counter-balance the emphasis on debt payments with one on social spending, and that on 'fiscal debt' with one on 'social debt', related to the unrealised human rights commitments that the government needs to respond to.
- In Mexico, civil society has used **access to information** legislation to question a number of government policies, forcing the government to reveal previously unreleased information (for example on the salary of the president) which increased the level of transparency, and therefore the scope for domestic accountability.
- In Sri Lanka, UNDP supports the AidWatch initiative aimed at is to empowering the beneficiary communities to **monitor the aid that they receive** by engaging in participatory monitoring and dialogue with the development actors. This involves a two-step parallel strategy. First, it is awareness-raising of the rights of beneficiaries to demand accountability and transparency in the development process in which they should not remain voice-less non-actors. This is done though organizing beneficiaries into coalitions and explaining to them that 'aid is not benevolence but their right' and thereby creating forums, which brings together the development actors with the beneficiaries. In these forums, there is a sharing of budgets, reasons for delays, taking into consideration the needs of the beneficiaries etc. Second, is to create a forum that would bring together the relevant government, development and civil society stakeholders. The objective of this forum is to create awareness and build consensus for them to collectively address concerns raised by the beneficiaries.

5. Concluding remarks and proposals

As argued above, a human rights perspective can be quite useful in broadening the scope and specifying the content of the Paris Declaration commitments and indicators on MA. At the moment, these are quite narrowly defined in terms of 'aid administration'. This reflects the limited consensus that exists within the DAC on a number of more substantive issues, which makes any substantial reformulation of the indicators and targets quite difficult at this point. However, the importance of broadening the underlying debates to include a human rights perspective should be a priority, particularly at country-level, where systems and mechanisms both for MA are being defined and put in place as part of the follow-up process to the Paris Declaration.

Human rights approaches can also be quite useful in framing some of the ways in which the domestic dimension of mutual accountability can be strengthened. Improvements in this dimension, however, will depend crucially on long-term democratisation processes, which possibly limits the scope of the monitoring process linked to the Paris Declaration, which instead is focused on a much more limited time horizon (to 2010), and bears little relation to democratisation issues. Even strengthening the role of Parliaments (which deserve a specific mention in the Declaration) in upholding human rights commitments is likely to prove an elusive concept, especially in countries with presidential or one-party systems with limited democratic credentials or traditions.

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