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Overseas Development Institute

LEARNING FROM THE UK DEPARTMENT FOR INTERNATIONAL DEVELOPMENT'S RIGHTS-BASED APPROACH TO DEVELOPMENT ASSISTANCE

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Acronyms

CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CAP	Country Assistance Plan
CSP	Country Strategy Paper
CRC	International Convention on the Rights of the Child
CESCR	(UN) Committee on Economic, Social and Cultural Rights
DFID	Department for International Development
EU/C	European Union/Commission
FCO	UK Foreign and Commonwealth Office
GoR	Government of Rwanda
IDS	Institute of Development Studies (Sussex University)
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDTs	International Development Targets
IFIs	International Financial Organisations
MoU	Memorandum of Understanding
MDGs	Millennium Development Goals
NGO	Non-Governmental Organisation
PRAMs	Participatory Rights Assessment Methodologies
PRS	Poverty Reduction Strategy
OECD	Organisation for Economic Cooperation and Development
ODA	Overseas Development Administration (now DFID)
ODI	Overseas Development Institute
OHCHR	Office of the United Nations High Commissioner for Human Rights
SSAJ	Safety, Security and Access to Justice
SWAp	Sector Wide Approach
TSP	Target Strategy Paper
UN	United Nations
UNDP	United Nations Development Programme
UDHR	Universal Declaration on Human Rights

Executive Summary

1. Background

1.1 In 1997, the UK Department for International Development adopted a new approach to development assistance and put poverty eradication firmly at the centre of its work. At the same time, the Secretary of State requested that human rights be incorporated within DFID policy and, as a result, the 1997 White Paper highlighted the importance of rights. The 2000 White Paper (on globalisation) went further, explicitly stating that DFID had adopted a "rights-based approach". In the same year, DFID also issued a policy paper on human rights. Since then, DFID has been attempting to implement this new policy framework, but, to date, its impact has not been assessed.

1.2 This paper was originally commissioned by the German Development Institute so as to inform the development of German development cooperation policy towards human rights. It is based on a few interviews and document reviews. It should not be considered to be a thorough analysis and evaluation of the impact of the approach on DFID's policies, dialogue and programmes. Rather, it aims to identify some of the lessons that can be learned from DFID's experience and comment on challenges currently facing DFID.

2. Main findings

2.1 DFID has developed an innovative approach to human rights policy, as presented in its 2000 Target Strategy Paper *Realising Human Rights for Poor People*. Instead of placing human rights within the democratisation and rule of law agenda, its policy focuses on how poor people can be empowered to claim their rights. The three pillars of the policy are: (i) participation; (ii) inclusion; and (iii) fulfilling state obligations.

2.2 Development of the policy benefited from a positive domestic political environment, with a new focus on poverty eradiation, and the coming to power of a Labour government, with a Secretary of State for International Development committed to defending the economic and social rights of the poorest. It also coincided with the development of an international consensus on the importance of human rights for development.

2.3 The process of developing and implementing a policy cannot be analysed separately from its organisational context. The human rights policy has come to be associated with a particular professional group within DFID, that of Social Development. As a result, the links with the Governance agenda and programmes are weak, and DFID's approach could benefit from more explicitly integrating the nature of state obligations, the domestic political environment and how to improve domestic legal and political systems so as to better respect rights. DFID has also adopted a somewhat "instrumental approach" to human rights; the Millennium Development Goals are seen as the main objective of its work, and rights are valued mostly for their contribution to the MDGs rather than for their intrinsic value.

2.4 DFID has been successful in its effort to influence international human rights and development policy. It has provided significant assistance to the Office of the High Commissioner for Human Rights and has worked collaboratively with the World

Bank. DFID has also been successful at working across government agencies, for example with the Foreign Office. It is now commonly known as an agency that has adopted a rights-based approach.

2.5 This external perception may not, however, correctly reflect internal DFID practice. The senior manager who developed the policy left her post once the Human Rights TSP had been issued, and human rights then became a less prominent issue at senior levels. This has made it more difficult to systematically incorporate a rights-based approach in other policies and country programmes. Some departments and country offices have adopted a rights-based approach and are developing innovative programmes but there is not consensus within DFID that the promotion and protection of human rights is one of its main objectives. Some staff remain resistant to human rights, and there is a need for further practical guidance.

2.6 DFID's new Policy Division does not have a team specifically working on human rights, and the policy teams do not seem to be taking a rights perspective. However, there is some more conceptual and operationally relevant work that could be done by DFID, for example:

- Clarifying the relationship between the Millennium Development Goals and human rights, so that the latter are not seen solely in an instrumental manner;

- Work in particular with Economists to operationalise the concept of the "progressive realisation of economic, social and cultural rights" advocated by international human rights instruments;

- Taking human rights into account as part of new policy development, for example in the area of HIV-AIDs, "drivers of change" or "poor performance", chronic poverty, or peace accords and post-war situations;

- Analysing the contribution that civil and political rights can make to development and, in particular, as part of domestic processes of social and political change;

- Continue engagement with the International Financial Institutions, in particular the World Bank, and share experiences with other donor agencies;

- Continue to think through the implication of human rights for a "partnership approach" to development, where both development agencies and governments can be made more accountable to the public; and

- Build on initial work by the OHCHR to identify the contribution that human rights can make to Poverty Reduction Strategy Papers and related processes to help the poor hold governments to account for their commitments.

2.7 The above requires DFID to have a strong human rights focal point, with adequate resources to contribute to policy development, the capacity to learn from DFID programmes and to exchange information and views with other development agencies, research institutes and human rights organisations, both in developed and developing countries.

3. Lessons for donors

3.1 Drafting a policy document can be a useful process to further refine a new policy, identify ways in which it is innovative, and build consensus between different professional groups within an organisation and across government (e.g. between a development agency and a Ministry of Foreign Affairs).

3.2 There are roughly two schools on rights-based approaches: an empowerment model and one putting more emphasis on international human rights obligations and strategies to realise them. Agencies should draw on both, and not see them as mutually exclusive, as this will undermine the overall approach.

3.3 It is essential to have support from ministerial and senior management levels within the organisation but this is not sufficient. "Champions of change" and supporters are needed at different levels in the organisation.

3.4 Whilst a new policy needs a strong champion within the organisation, it may become counterproductive if the resulting policy is associated too closely with a specific person or group or comes to be seen as a "competing" framework.

3.5 There are some pitfalls when support for/opposition to the policy becomes institutionalised between rival professional groups. The policy development process should create space to discuss how the approach is compatible with, and even complements, other approaches.

3.6 Policy development is not static and is not completed once an overall document on human rights and development is produced. Opportunities to hear feedback on the policy, projects to further concretise the approach and mainstreaming into other policy areas or sectors can enrich the approach and make it more relevant for staff on the ground.

3.7 In addition to developing an intellectually sound policy document, it is important to ensure adequate dissemination of the document to relevant staff, accompanied by training and discussion sessions. Ideally, the document should identify how it is a response to the current needs of staff, and not be seen as a new additional requirement.

3.8 Training in international human rights law and how to apply it at a national level, as well as other introductory readings on rights, will be important for development officials who are unlikely to have a background in this approach. Conversely, lawyers who might be engaged in the development of such an approach will need to have, or gain, practical development cooperation experience. With both initiatives, the aim should be to "build a bridge" between two communities which tend to have different discourses and policy frameworks.

3.9 There is a need to avoid falling into two pitfalls when implementing a new rights policy. On the one hand, although it may be possible to develop rigid procedures to ensure the implementation, this would not be helpful as (i) the operationalisation of rights approaches is still under way and new tools are being developed, and (ii) a rights-approach needs to be in tune specifically with the local context and tools may need to be developed locally rather than imposed by donor agencies. On the other hand, leaving the implementation of a rights-based approach to individuals within country programmes means that the policy will not be seen as being truly embedded within the organisation, and cross-programme learning and policy development might suffer.

3.10 There is a need for continued cross-learning between donor agencies. This will benefit agencies and Ministries in the process of developing approaches, as well as agencies which have already adopted such an approach, but which are probably now at a stage of needing to evaluate the impact achieved.

1. Introduction

1.1 In 1997, the UK Department for International Development (DFID) adopted a new approach to development assistance. It put poverty eradication firmly at the centre of its work, with the aim of achieving the International Development Targets (IDTs). At the same time, the Secretary of State requested that human rights be incorporated within DFID policy and, as a result, the 1997 White Paper highlights the importance of rights. [1] The 2000 White Paper (on globalisation) went further, explicitly stating that DFID had adopted a "rights-based approach"[2] and, in the same year, DFID also issued a policy paper on human rights. Since then, DFID has been attempting to implement this new policy framework but, to date, its impact has not been assessed.

1.2 The original version of this report, dated March 2003, was commissioned by the German Development Institute to identify what lessons could be learned from DFID's experience. It constitutes part of a body of background research, providing advice to the German Government on the development of a human rights approach to development cooperation. The report was then updated with the aim of being circulated to a wider audience.

1.3 The background report was asked to review the following questions:
- What measures have been undertaken or are currently being conducted which focus on, and promote, human rights in development cooperation?
- What has been the experience so far, both good or bad?
- What concepts, expectations and concrete proposals concerning a human rights approach for development cooperation have been developed or implemented?
- How can all these factors be brought together and operationalised with a view to implementing a human rights approach to development cooperation?

1.4 Some draw a distinction between a "human rights" approach and a "rights-based" approach to development. The former is seen as being linked more explicitly to the international human rights framework and is described by some as "legalistic" The latter is seen as emphasising the importance of "empowerment" of poor and marginalised groups to claim their rights, and may make more of an inspirational use of human rights language. For the purpose of this paper, the two expressions will be used without drawing such a distinction, as advocates of a more legalistic perspective also consider themselves to be pursuing a rights-based approach to development.

1.5 Research for this paper was untaken in a very short time frame, with a few interviews in March 2003. The analysis mostly draws on the author's personal knowledge of DFID, and on a previous report on the right to development commissioned by DFID in 2002.[3] It should not be considered to be a thorough analysis and evaluation of the impact of the approach on DFID's policies, dialogue and programmes. Rather, it aims to offer an identification of some of the lessons that can be learned from DFID's experience, to give a commentary on challenges currently facing DFID, and to provide some recommendations to the German government and other donors.

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[1] DFID, *Eliminating World Poverty: A Challenge for the 21st Century,* White Paper on International Development, 1997, p. 16, para 1.20 and panel 1.
[2] DFID, *Eliminating World Poverty: Making Globalisation Work for the Poor,* White Paper on International Development, December 2000, p.27. para 70.
[3] Laure-Hélène Piron, "The Right to Development: a Review of the Key Issues and Recommendations to the UK Department for International Development", April 2002.

2. Origin of DFID's Rights-Based Approach

2.1 Political context

2.1.1 DFID's adoption of a rights-based approach needs to be set in its political context. It coincided with the election of a new Labour government in the summer of 1997 and the appointment of Clare Short as the new Secretary of State for International Development. The Overseas Development Administration (ODA) was renamed the Department for International Development, and was given a higher political status as an independent department (it had previously been part of the Foreign and Commonwealth Office - FCO). As a result, the Secretary of State became a member of Cabinet, raising the domestic political profile of international development.

2.1.2 The ODA was already working on poverty reduction as part of its development assistance agenda, but the new Secretary of State moved this agenda much further. She insisted that DFID should be concerned with the *elimination* of poverty, rather than merely its reduction (as the latter reflected the intention of alleviating the situation of the very poorest, but not necessarily providing a route out of poverty). This new direction was accompanied by the new Labour government's general adoption of "targets" to measure the performance of government departments and to create incentives for better accountability to the public by focusing on results.

2.1.3 In line with this approach, DFID decided to adopt the International Development Targets (IDTs) around which it could galvanise the international development community and focus its own efforts. The targets had been set as the result of a number of United Nations conferences in the 1990s and endorsed by the major multilateral institutions, such as the International Monetary Fund, the World Bank, the United Nations (UN) and the Development Assistance Committee of the Organisation for Economic Cooperation and Development (OECD).[4] The headline target was the reduction by half of the proportion of people living in poverty by 2015. Following further international consultations, the IDTs were slightly amended and re-adopted as the Millennium Development Goals (MDGs) at the UN Millennium Assembly in 2000.[5]

2.1.4 The Secretary of State came to her position not just as a strong advocate of poverty eradication, but also as a defender of human rights. She had been the chair of the International Socialist Group on Human Rights and was close to the trade union movement. Her interpretation of human rights meant that she saw them not principally as civil and political, but also as economic, social and cultural rights, and committed herself to redressing the balance between the two sets of rights. In a 1998 speech she made a specific plea to ensure that the international human rights movement focuses "as much attention on the denial of these economic and social rights – and to generate as much anger about them – as it rightly does about the violation of civil and political rights".[6] Clare Short's interest in human rights coincided with that of the new Foreign Secretary, Robin Cook, who introduced an "ethical foreign policy" to provide direction for the work of FCO. In 1998, the UK also incorporated the European Human Rights Convention into a new Human Rights Act.[7]

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[4] OECD, *Shaping the 21st Century: The Contribution of Development Co-operation*, 1996 and IMF/OECD/UN/WB, *A Better World for All: Progress Towards the International Development Targets*, June 2000.
[5] United Nations Millennium Declaration, 2000.
[6] DFID, *All Human Rights For All, Secretary of State Speech,* 3rd December 1998, p.3.
[7] It is interesting to note that both Robin Cook and Clare Short resigned from their positions in opposition to the military intervention in Iraq (Clare Short doing so after the war). The new Secretary of State for

2.1.5 These developments came at a time when the international environment was becoming more supportive of human rights. In 1997, the United Nation's reform agenda included "mainstreaming human rights" in all the activities of the organisation.[8] In 1998, the 50th anniversary of the Universal Declaration of Human Right (UDHR) was celebrated and a number of organisations developed new human rights policy documents, such as the United Nations Development Programme (UNDP) and the World Bank. UNDP's Human Development Report for 2000 was on human rights.[9] There were also a number of international meetings on human rights and development, such as the 1998 UN meeting in Oslo.

2.1.6 A favourable international and domestic environment, a change of leadership, and a new vision for the organisation explain the broad context within which DFID's human rights approach was developed. However, on their own, these factors are insufficient to explain how this intention was translated into policy, and later, into practice. The next sections review the process whereby this happened.

2.2 Developing a new policy

2.2.1 The Secretary of State's wish to see DFID develop a rights-based approach was given substance during the process of developing the 1997 White Paper, which set out the Department's new policy framework. There was, however, no internal DFID expertise on human rights, though some senior managers did have an interest, such as the Chief Social Development Adviser who became DFID's foremost champion of the approach.

2.2.2 External advice was sought and the NGO Rights and Humanity was commissioned to prepare a paper defining and identifying the implications of adopting a rights-based approach. This was later published as a book and circulated fairly widely within DFID.[10] The NGO also delivered some training to staff. On the basis of this document, DFID officials attempted to include references to human rights in the White Paper as part of a negotiated process, which involved other government departments and a diversity of interests within DFID.

2.2.3 The process produced only limited success. The White Paper contains only one panel explaining what human rights are and this is done in very general terms. References are made to different categories of rights, without explaining that their legitimacy stems from the international human rights regime. There is no mention of the UDHR or the main covenants and conventions. A separate panel makes a commitment to working towards securing the rights of the child in the context of the Convention on the Rights of the Child (CRC). The rest of the document makes number of references to human rights, but the distinction between rights and needs, and between different types of rights (for example, civil or social), is not always clearly drawn, as is illustrated by the following quote:

> It is time to review our aspirations. All people have basic needs – fresh air to breath, clean water to drink, uncontaminated food to eat, and livelihoods that allow them to earn their keep and raise healthy, educated children. We want to see a global society in which people

International Development, Baroness Amos, also has a human rights background (e.g. as consultant to the South African government) and has a strong interest in women's human rights.
[8] See *Renewing the United Nations, A Programme for Reform*, A/51/950, 14 July 1997.
[9] UNDP, *Integrating Human Rights with Sustainable Human Development,* 1998; World Bank, *Development and Human Rights: The Role of the World Bank*, 1998; and UNDP, *Human Development Report: Human Rights and Development,* 2000.
[10] Julia Hausermann, *A Human Rights Approach to Development*, Rights and Humanity, 1998.

everywhere are entitled to live in peace and security, with their families and neighbours, and enjoy in full their civil and political rights. We want to see economic endeavour hand-in-hand with accountable government, the rule of law and a strong civil society.[11]

2.2.4 Introducing human rights within the White Paper was a crucial first step and it legitimised further policy development. For example, in 1998, the Chief Governance Adviser commissioned work on governance and civil and political rights, and in 1999 considered how human rights instruments could be useful in the debate on governance indicators. Initiatives such as the production of a joint DFID-FCO human rights report in 1998/99 were symbolic of the attempt to develop a government-wide line.[12] There was also engagement with both domestic and international organisations. In 1999, for example, the Chief Social Development Adviser addressed an Amnesty International conference.[13] Furthermore, in a number of speeches, such as the one in 1998 to celebrate the 50th anniversary of the UDHR, the Secretary of State re-stated that DFID was adopting a new approach:

> In our White Paper the Government committed itself to a rights-based approach to development. That means making people the central purpose of development. Not by speaking or acting on their behalf, but by allowing them to speak for themselves – to articulate their own interests and needs.[14]

2.2.5 Following the adoption of the first White Paper, it was decided that DFID would develop a set of sectoral or thematic policy statements, to realign existing policies with the new poverty eradication objectives as set out in the IDTs. "Target Strategy Papers" (TSPs) were developed from 1999 onwards. However, those who championed the development of a human rights policy faced the challenge that there is no IDT on human rights (even though there was a major world conference on rights in Vienna in 1993), as well as resistance from senior management and certain professional groups. There was a suggestion that there should be a joint governance and human rights paper and it was not evident that a separate human rights policy paper would be produced.

2.2.6 However, by 2000, the Human Rights Target Strategy paper had been issued, and the second White Paper made an explicit reference to the approach:

> Making political institutions work for poor people means helping to strengthen the voice of the poor and helping them to realise their human rights. It means empowering them to take their own decisions, rather than being the passive objects of the choices made on their behalf. And it means removing forms of discrimination – in legislation and government policy – that prevent poor people from having control over their lives and over the policies of governments. Governments must be willing to let people speak, and to develop mechanisms to ensure that they are heard. This is central to what we mean by a rights based approach to development.[15]

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[11] First White Paper, 1997, para. 1.7.
[12] This practice was not repeated in following years, apparently not because of policy disagreement but because of the practical difficulties of issuing such a document and the input of staff time required.
[13] DFID, "Dr Eyben speaking notes on behalf of the Secretary of State at an Amnesty International Conference" 30 May 1999.
[14] DFID, *All Human Rights For All, Secretary of State Speech,* 3rd December 1998, p. 6.
[15] Second White Paper, p. 27, para 70.

2.2.7 A process of negotiation also had to take place to ensure that parallel initiatives took into account the emerging policy. For example, during 1999 DFID had decided to develop a partnership with the UN Office of the High Commissioner for Human Rights (OHCHR). This initiative had come from a department within DFID working on humanitarian issues and aimed to institutionalise the large amount of financial assistance provided to OHCHR's new field operations. The first draft strategy focused primarily on conflict situations and not on OHCHR's more mainstream human rights standard setting and monitoring activities. However, departments also interested in human rights, such as the Governance and Social Development Departments, were eventually able to influence the process of developing this partnership. As a result, it became more in line with DFID's emerging thinking, for example by explicitly mentioning economic, social and cultural rights as part of the objectives.[16]

3. DFID's Rights-Based Approach

3.1 The Human Rights Target Strategy Paper

3.1.1 At the time of the drafting the TSP, DFID's rights-based approach can be summarised as having included the following elements:
- the centrality of the relationship between human rights and poverty reduction;
- some awareness of the UDHR (but limited interest in the international treaties that make up the international legal framework);
- making *people* the central purpose of development;
- commitments to social justice, equity, non discrimination, and participation;
- a form of conditionality whereby partnerships with developing countries would be based on respect of human rights by governments (as stated in the White Paper);
- humanitarian assistance based on international human rights and humanitarian law and not just need;
- redressing the balance in favour of economic, social and cultural rights;
- an interpretation of poverty eradication and the international development targets as a reaffirmation of social and economic rights;
- working on children, women and labour rights as well as accessible justice systems.

3.1.2 The 2000 TSP, *Realising Human Rights for Poor People*, defined the overarching contribution of human rights to development as "empowering people to take their own decisions, rather than being the passive objects of choices made on their behalf."[17] Development was not about charity; poor people had a right to expect that their governments tackle poverty and exclusion.

3.1.3 DFID's strategy was structured around three key concepts:

(i) Participation: enabling people to realise their rights to participate in, and access information relating to, decision-making processes affecting their lives.

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[16] Laure-Hélène Piron, "Evaluation of the Partnership between the UK Department for International Development and the United Nations Office of the High Commissioner for Human Rights", Overseas Development Institute, January 2003.
[17] DFID, Human Rights TSP, p. 7.

(ii) <u>Inclusion</u>: building socially inclusive societies, based on the values of equality and non-discrimination, through development which promotes all human rights for all people.

(iii) <u>Fulfilling obligations</u>: strengthening institutions and policies which ensure that obligations to protect and promote the realisation of all human rights are fulfilled by states and other duty bearers.

3.1.4 The TSP was a negotiated document, and indicative of the complex processes of policy developments. It is still indicative of the way in which DFID decided to interpret what should constitute a rights-based approach. It is rather innovative in that DFID adopted an "empowerment approach" which focused on the inspirational aspects of human rights, and how poor and marginalised people could use them, whereas most other donor agencies have placed human rights within the context of democratisation and the rule of law. As a result, DFID policy possibly downplayed legal, political and other mechanisms that can be used to set standards and formally hold governments to account.

3.1.5 Those who helped develop DFID's interpretation of human rights for development cooperation decided to focus on *participation* as the driving concept. Participation was already an important component in DFID's approach to project and programme design, and was institutionalised through guidance on stakeholders' analysis, participatory techniques, and Participatory Poverty Assessments. Some argue that the TSP helped to give greater prominence to participation within DFID, not just as an instrumental form of consultation, but also as a "right" and a tool for political empowerment.

3.1.6 However, for others, the intrinsic importance of political participation had already been recognised by DFID. There was an ongoing trend within DFID towards paying greater attention to political issues for development in general, and a rights-based approach was not central to it. For example, work commissioned in preparation for the *World Development Report 2000/01* on poverty included an analysis of how to help political empowerment, not just through political mobilisation and building the capabilities of the poor, but also by strengthening the state so that mobilisation has a point of focus.[18] As a result of the decision to focus on participation and empowerment, within DFID, the rights-based approach became associated with society-led initiatives, and less so with state obligations and political development.

3.1.7 The second component of the policy framework, "inclusion" (relating to equality and non-discrimination), was consistent with ongoing DFID concerns, such as the protection of vulnerable groups, and, before the TSP was issued, was the responsibility of the Social Development Department. The priority given to inclusion as a headline concept seems to derive from the definition of social inclusion agreed at the 1995 Social Development Summit in Copenhagen. Country programmes that have used the Human Rights TSP, such as the DFID Peru programme, have found it helpful to focus on socially entrenched discrimination (in particular against indigenous groups and women) as the main barrier to poverty eradication. DFID's economic development policy also stressed the need for growth *with equity.*

3.1.8 The third component, "fulfilling obligations", helps to focus attention not just on the demand side of rights-claiming, but also on the legitimate nature of these claims, and the obligation of the state to respond to them. The chosen approach was to see

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[18] Mick Moore and James Putzel, "Thinking Strategically about Politics and Poverty", Institute of Development Studies Working Paper no 101, October 1999.

how poor people could benefit directly from the international framework, and relatively less attention was paid to the value of standard setting, international mechanisms, domestication through constitutional or legal provisions which actually ground state obligations or the importance of fair and accessible justice systems to enforce rights. This omission somewhat weakens the policy: it does not make full use of what is unique about the international human rights regime and what differentiates a rights-based approach from other "pro-poor" participatory policies.

3.1.9 DFID's approach does recognise that effective state institutions and policies have to be in place to enable states to fulfil their obligations and that this requires transparent and accountable governance. However, the links between governance and human rights were downplayed at both the conceptual and practical levels. This is explained in part by a split that occurred between the two key departments. Social Development Department led on the production and implementation of the rights strategy, and Governance Department was meant to be responsible for its third component (the role of state institutions). In practice, Governance Department did not promote the strategy, and its own work on access to justice was developed with almost no references to DFID's new human rights policy.

3.1.10 The TSP is seen by practitioners as a rather general document, and some staff feel that it is not is easily accessible for non-social scientists. It does not, for example, provide a detailed analysis of international human rights standards and their implication for development. This is a problem with all TSPs: they are principally policy setting documents, and were not meant to be practically orientated. However, the Human Rights TSP was not complemented by a guidance note on implementation and there was little dissemination and training. Some feel that additional practical guidance is still needed.

3.1.11 Another challenge to follow through was the departure of the Chief Social Development Adviser who led the development of the policy soon after the TSP had been published. As a result, many people perceive that DFID's rights-based approach lost its senior management advocate at headquarters at a time when it was not yet institutionalised. This made it harder to put pressure on the organisation to systematically incorporate a rights perspective. The approach seems to have become less prominent internally, in particular at senior management level, though an external perception of DFID as a champion of rights-based approaches remains, and some country offices have picked up the policy.

3.1.12 The TSP and the process through which it was developed provided a DFID framework for a rights-based approach on which policy departments and country programmes could then build. The next section reviews the diversity of ways in which human rights have been recognised in the other policy documents relating to the achievement of the IDTs/MDGs.

3.2 Other Policy Papers

3.2.1 Target Strategy Papers were meant to be documents that set out DFID-wide policies. However, they quickly became the mechanism through which DFID's different professional groups (on economics, education, health and population, etc) repositioned themselves in the new policy environment. The Human Rights TSP became associated with Social Development Department and was not perceived as a truly DFID-wide document. As a result, a mainstreaming of its analysis into other policy documents was not simply a matter of conceptual clarity but also of intra-office negotiations.

3.2.2 Annex III reviews the extent to which different policy documents reflect a commitment to a rights-based approach. Most do mention human rights, which shows that the concept had become accepted across most professional groups. However, only a few make references to the international human rights framework and go beyond just talking about a right to "x" (something desirable) by thinking about the practical implications of using a rights framework. Such a selective textual analysis is of course insufficient to understand the extent to which DFID's rights-based approach has influenced other policies. As noted above, the TSPs were not truly DFID-wide documents, and were also drafted at different times, with some preceding the Human Rights TSP. It should be complemented by a review of the impact of the Human Rights TSP and headquarter support on the activities of other DFID policy and operational departments, and country dialogue and programming. For example, the East Kilbride-based civil society department used the Human Rights TSP as an organising framework.

3.2.3 The strongest references to human rights can be found in the documents developed by Social Development Department, for example on gender[19] and children.[20] The Education and Hunger TSPs are also explicit in talking about the right to education[21] or the right to food[22] and in advocating for both state obligations and activities that will empower the poor to claim their rights. The Land Policy,[23] not a Target Strategy Paper and developed later, is very strong on rights. It clearly identifies how poor people can claim their legal rights, and protect their legitimate claims to land. By contrast, the Poverty Reduction and Governance TSPs[24] are weaker in their analysis of how poor people can be empowered to demand their entitlements, and what are state's human rights obligations. The greatest omission is to be found in the justice policy and guidance documents, which use extremely careful language to avoid mentioning human rights so as to clearly separate the policy areas, and does not explore how enhancing safety, security and access to justice can contribute to promoting poor people's human rights. [25]

3.3 Working across government

3.3.1 The development and implementation of the Human Rights TSP required DFID to work collaboratively with other government departments. DFID has had a relatively positive experience in working with the Foreign and Commonwealth Office on human rights issues. The FCO leads on diplomatic issues and treaty negotiations, and regularly asks DFID for inputs into United Nations human rights discussions. For example, as a result of such a request, DFID commissioned a report on the Right to Development to clarify the consistency between its overall policy framework and this controversial topic.[26] The FCO also collaborated closely with DFID in the development of an Institutional Strategy Paper to support the OHCHR.[27] The process required negotiations between the two departments, but DFID benefited a great deal

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[19] DFID, *Poverty Elimination and the Empowerment of Women*, September 2000.
[20] DFID, *Breaking the Cycle of Child Poverty*, May 2002 which is complemented by *Liberating Children: Combating Hidden and Harmful Child Labour* May 2002.
[21] DFID, *The Challenge of Universal Primary Education*, January 2001.
[22] DFID, *Eliminating Hunger*, May 2002
[23] DFID, *Better Livelihoods for Poor People: The Role of Land Policy*, Issues Paper Consultation Draft, April 2002
[24] DFID, *Halving World Poverty by 2015: Economic Growth, Equity and Security,* September 2000 DFID, *Making Government Work for Poor People: Building State Capability*, September 2001.
[25] DFID, *Justice and Poverty Reduction* SSAJ Policy Statement, 2000 and DFID, *Putting Policy into Practice* SSAJ Guidance Note, 2002.
[26] See Piron, 2002.
[27] DFID, *Working in Partnership with the United Nations Office of the High Commissioner for Human Rights,* October 1999.

from the FCO's Human Rights Policy Department detailed knowledge of the international human rights regime and, through the UK Mission in Geneva, of the political and administrative constraints faced by the OHCHR. Collaboration continued during the implementation of the partnership. At a country level, FCO and DFID staff have to work together on human rights issues. Though experiences vary, there is a general acknowledgement of the need to collaborate and develop where possible common UK positions.

3.3.2 There have been other successes in implementing a coherent government-wide human rights approach on certain policy issues. For example, DFID used the Human Rights TSP as part of an inter-governmental discussion on environmental protection in the run up to the 2002 Johannesburg Summit on Sustainable Development. Though some other UK departments had some reservations (such as those working on trade and environment), DFID was able to make a strong case on the basis of the TSP. This does not mean that because DFID has adopted a human rights policy, such a perspective will always prevail in inter-governmental discussions. Negotiations with the Ministry of Defence and the Department of Trade and Industry would need reviewing to understand under what circumstances, and by using which strategies, DFID has been able to uphold its views. But it is clear that DFID is in a stronger position because it has adopted such a policy supported by a public document.

3.4 International dimension

3.4.1 DFID's rights-based approach includes promoting the international human rights framework. In the 2000 White Paper, it is stated that:

> The UK government is committed to working with others to enhance the human rights of poor people. Through our development programmes and our diplomatic efforts we will continue to encourage governments around the word to ratify the UN human rights treaties, to help them abide by the obligations that those treaties place on states, and to put them into practice in national legislation and policy.[28]

3.4.2 DFID has to date been very cautious in how it engages with the right to development debate, which has been interpreted by some as creating a right to receiving international assistance. Whilst recognising the importance of international collaboration, and partnership approaches to development, DFID has stressed the primacy of the national obligations of developing countries to realise human rights. It perceives the role of the international community as being to support such governments in achieving these. Although the Human Rights TSP states that "development agencies should be subject to the same standards of transparency as governments"[29], which is a step towards accepting that development agencies also have obligations, DFID's main statement on the right to development is prudent:

> The Right to Development sets out the need for an environment of international co-operation which enables the development of all countries of the world. Development, however, also requires that national governments ensure that their efforts are effectively focused on actions which accelerate the elimination of poverty. The Right to Development sets out the obligations of national governments to

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[28] Second White Paper, para 76.
[29] Human Rights TSP, para 5.3.

support the institutions and processes to ensure that this will happen.[30]

3.4.3 In general, DFID has been keen to engage with other international organisations in the development of international policies. For example, DFID has played an important role in raising the prominence of the IDTs/MDGs as the shared international development objectives. In the human rights field, DFID made a strategic choice to work with multilateral organisations. It has been supporting the UN system, through institutional partnerships with for example OHCHR and UNICEF, and in particular supporting the latter's development of a rights-based approach.[31] DFID was also the only bilateral donor invited to the first intra-UN agency meeting to look at how human rights could be incorporated in the Common Country Assessment/UN Development Assistance Framework in 2001.

3.4.4 DFID has not been advocating that the IFIs should adopt human rights policies, but it engages in dialogue and offers relevant assistance. For example, DFID has supported work for the World Bank on livelihoods and rights[32], as a more discreet form of engagement. DFID has also been supportive of efforts to enhance the public accountability of such institutions (e.g. World Bank Inspection Panel, greater negotiating force for developing nations in trade rounds, etc).

3.4.5 As a result, DFID has become internationally known as an agency supporting a human rights approach to development, although such as approach is not necessarily consistently applied internally.

4. Programme implementation

4.1 Responsibilities

4.1.1 As DFID has not commissioned an external study of the impact of its human rights policy on its policy dialogue and programmes, the following analysis is based on personal experience and limited interviews. Programme documents and evaluations have not been reviewed and DFID partners have not been interviewed.

4.1.2 Up until April 2003, DFID's Policy Division was structured around Departments. This has been reformed, and thematic policy teams have been constituted to deal with emerging issues on a more fluid basis. Under the previous structure, responsibility for developing and disseminating the human rights policy was formally divided between Social Development and Governance Departments. In practice, Social Development Department came to "own" the strategy and to have the overall lead within DFID. An administrator coordinated policy discussions and a Social Development Adviser was responsible for policy development and support to country offices. Within Governance Department, a Human Rights and Justice Adviser was mostly working on safety, security and access to justice issues, and only marginally on human rights (by, for example, representing the UK in certain EC committees). A Senior Human Rights Adviser, located in the Conflict and Humanitarian Affairs Department, was operating relatively autonomously from Policy Division.

4.1.3 It has been noted that once the senior manager championing the human rights policy left Policy Division, human rights were given less prominence in DFID policy,

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[30] Human Rights TSP, para 3.9.
[31] DFID, *Working in Partnership with the United Nations Children's Fund*, November 2000.
[32] Andy Norton and Caroline Moser et al *To Claim our Rights*, Overseas Development Institute, 2002.

though support provided by headquarter-based advisers was valued.[33] At the time of writing, none of the new Policy Division teams were mandated to take forward human rights and development issues. In general, the teams have not been asked to provide assistance for implementation of previously developed policies, which is causing a problem of policy continuity and support to country offices in some areas.

4.1.4 There appears to be, however, a general sense within DFID that human rights are important, and country programme managers are generally aware of these issues. This acceptance of the policy was not the result of a strong programme of dissemination or human rights training, but came from an *ad hoc* awareness of the policy, and responsiveness to the international policy environment and perceived country priorities. As a result, there are inconsistencies between interpretations and a range of views on the legitimacy of the policy. Some staff appear to be indifferent to human rights. Whilst acknowledging that the concept appears to be important, they would not know how to go about implementing such an approach and do not think it is a priority to do so. In contrast, others within policy departments and country programmes are actually inimical to the approach, and resist references to human rights. The proportion of those who hold such attitudes has not been investigated. Overall, it seems that the policy has been broadly accepted, but that there is a lack of clarity as to what it entails in practice.

4.1.5 A rights-based approach has been explicitly adopted in only a few countries, and where this has occurred, it has been the result of advocacy by certain advisers, from the Social Development cadre. This has led to a great deal of diversity in the manner in which the policy is implemented. This is positive in that it allows for country experimentation, innovation and, hopefully, should inform DFID's central Policy Division about how to take the approach forward. However, it may also act as a constraint on the policy becoming fully "owned" by the organisation because it may continue to be seen as belonging to one professional group, or one individual within a country programme. DFID also now has very little capacity at the centre to synthesise lessons coming from field experiences and to contribute to an evidence-based international debate on how to operationalise rights-based approaches. [34]

4.2 Assessment tools

4.2.1 DFID has not issued formal instructions requiring every country programme or project to be designed, implemented and monitored following a rights-based approach. Nor has it developed new and compulsory formal tools, such as human rights impact assessments. (Some NGOs and the CESCR[35] have demanded their introduction, as is the case, for example, with compulsory environmental impact assessments in DFID). However, the human rights "PIMS" marker, which is used to categorise programmes in terms of their thematic impact, has been revised to become consistent with the new policy and it is compulsory for all programmes/projects to be labelled with such markers at the approval stage.

4.2.2 A few relevant assessment tools have been identified. Social Development Department was working in partnership with four country programmes to develop

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[33] A survey of Social Development Advisers' satisfaction with Social Development Department in 2001 showed that they were the most satisfied with support on the rights agenda.

[34] In order to remedy this disappointing situation a senior gender and rights adviser is to be appointed, but sitting outside the policy teams and with no specific budget. It would have been better to have a team working on the topic, or at least a full time staff person.

[35] See for example "Concluding Observations of the Committee on Economic, Social and Cultural Rights: Japan", E/C.12/1/Add.67, September 2001 which encouraged Japan to introduce "human rights impact assessments".

new human rights assessments, called Participatory Rights Assessment Methodologies (PRAMs).[36] These aim to identify people's own priorities and understanding of rights in different contexts, in order to understand the obstacles faced in accessing rights and identify actions to support governments and duty bearers in fulfilling their obligations. It is too early to assess the impact of these pilots, which are taking place in Malawi (education), Peru (local democracy) Romania (regional development) and Zambia (HIV-AIDS).

4.2.3 Governance Department had developed guidance on "participatory governance reviews" which include an assessment of a state's progress towards meeting its human rights obligations under various "governance capabilities". Existing project cycle management rules also require that institutional/governance and social appraisals, including stakeholders' analyses and participatory consultations, are undertaken before programmes/projects are approved. At these stages, most advisers and programme managers are able to ensure that human rights are taken into account and that beneficiaries are properly consulted. Programmes/projects are also assessed for the risks they entail, but a human rights "do not harm" risk assessment is not required. No other relevant project cycle management tools have been identified.

4.3 Country programmes

4.3.1 Implementation by DFID of a rights-based approach from a "content" perspective can be illustrated at the project level. A number of DFID projects and funds are specifically dedicated to the promotion and protection of particular rights. These include Governance Funds within national programmes, with a focus on civil and political rights and human rights NGO advocacy; women, children or minority rights projects, such as combating domestic violence, child labour or human trafficking; civil society projects to enhance political participation or advocate on specific issues; and a Human Rights Challenge Fund, which was funded and managed by Social Development Department for a few years. DFID policy is, however, to move away from punctual projects towards budget support and policy dialogue.

4.3.2 There appears to be a growing reference to human rights in DFID Country Strategy Papers (CSP), now redesigned as Country Assistance Plans (CAP). For example, the 1998 Peru CSP noted the problems of social exclusion of indigenous groups and women, and continued human rights abuses under the Fujimori administration.[37] Yet, it left direct human rights support in the hands of the FCO (with a focus on civil and political rights) and only noted that the needs of women, children and specific groups should be taken into account. In contrast, the 2002 draft CAP is more explicit about the nature and cause of social exclusion and inequalities. It draws on a specially commissioned "Voices of the Poor" study, notes the absence of effective political participation, and supports the new government's aim to move away from a welfarist approach to social assistance.[38] The goal of DFID assistance in Peru remains poverty reduction by 2015, but the purpose has shifted away from an improvement in livelihoods towards promoting "the development of an inclusive society, in which the poor and excluded become the active participants in

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[36] For more information see www.swan.ac.uk/cds/research/PRAMs/index.htm and CDS Swansea and Associates Edinburgh Resource Centre Limited, "PRAMs: Linking Participation and Institutional Change" A Background Working Paper on the Participatory Rights Assessment Methodologies (PRAMs) Project, draft October 2002.
[37] DFID Peru Country Strategy Paper, December 1998.
[38] DFID Peru Country Assistance Plan, draft September 2002.

developments to realise their social and economic rights". The CAP explicitly states that programmes will adopt a rights-based approach.

4.3.3 In line with the 1997 White Paper which promoted new partnerships between the UK and developing countries, CSPs have also been creative tools for developing new relationships. The 1999 Rwanda CSP is particularly interesting in this respect. It is based on a Memorandum of Understanding between the UK government and the Government of Rwanda (GoR).[39] Recognising Rwanda's exceptional circumstances, the UK government committed itself to long-term support, including budget support. In turn, GoR committed itself to meeting obligations set out in the MoU and to accepting annual independent reviews of progress. This mechanism has allowed for a high level political dialogue on a number of difficult issues, for example the media, and is indicative of a new approach which could be seen as reflecting some of the principles behind the Right to Development.[40] The degree of trust that has been developed has led, for example, to the new commitments, which can be seen as constitutive of a rights-based approach. The Rwanda draft CAP states:[41]

> GoR is signatory to all major international conventions specifying commitment to human rights and has also committed itself to promoting human rights through the [Poverty Reduction Strategy]. DFID's engagement in Rwanda is predicated on the Government remaining committed to progressively securing all human rights for its citizens, and to establishing a fair and transparent framework for the operation of civil society and the media. Should these commitments be put into question, we will look again at the scale and nature of our programme.

4.3.4 At the same time DFID commits itself to:

> Develop[ing] an approach across our programme that demonstrably supports the progressive realisation of rights for Rwandan citizens by Government. Through analysis and engagement we will support the Government's agenda for poverty reduction and our own contribution to better establish processes of strategic change which enhance the voice, capabilities and opportunities for poor people and the capacity and incentives for the state to deliver.

4.3.5 Two DFID country programmes (India and Peru) in particular have taken the rights-based approach seriously and are developing programmes explicitly with this framework. They helped inform the London-based Social Development Department about the practical impact of this new approach.

4.3.6 DFID Peru's focus on combating discrimination and social exclusion has been noted. This is a highly political objective, as it seeks to transform deeply entrenched power imbalances within society and the family. DFID Peru's principal programme is the "Human Rights for the Poor Programme" which seeks to promote the direct participation and inclusion of community-based organisations in policy processes and programmes. DFID Peru is also supporting political rights (an election project), the state's ability to meet its obligations to the poor (state modernisation), strengthening

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[39] Understanding on the development partnership between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic in Rwanda, *Rwanda Country Strategy Paper*, DFID, September 1999, pp. 9-12.
[40] Piron, 2002 (see Annex 5).
[41] DFID Rwanda Country Assistance Plan, draft February 2003.

the links between service providers (mainly the state) and citizens (a Health Rights programme with community participation in health management). This is a relatively small country programme and, as with other Latin American programmes, it aims to develop new approaches and share lessons with the rest of DFID.

4.3.7 DFID India commissioned the former Chief Social Development Adviser to assist them in understanding how a rights-based approach could be implemented in India.[42] It has been proposed that in India the rights-based approach should be interpreted around the goal of promoting "social justice", taking into account unequal power relations that constrain broad-based development, in particular the exclusion of women, scheduled castes, tribal peoples, minorities and those with disabilities. It is to be operatisonalised around the right to voice (accountability), right to identity (responsiveness) and right to knowledge (transparency). The purpose of the new civil society programme (SARBID – Supporting Actions for Rights-Based Inclusive Development) is to increase voice, identity and knowledge of poor and marginalised people in order to facilitate their role in improving governments' accountability, responsiveness and transparency. DFID India is also developing rights-based health strategies for its state-level work, as a collaborative effort between Social Development and Health and Population advisers. Efforts are also being made to influence other programmes, for example, by ensuring that the new Safety, Security and Access to Justice programme focuses on the needs of the poorest and socially excluded.

4.3.8 Though it is too early to draw lessons from these programmes, a couple of points can be noted. First, the focus of the implementation in these and other programmes seems to be on community participation in service delivery, and civil society advocacy, which are seen as an attempt to bring the state and society closer together. However, mobilisation is not the same as demanding and being able to ensure the respect or protection of specific rights, such as, for example, the right to health or education. When social and economic rights are entrenched in Constitutions, as in South Africa or India, the state can be made to develop affordable policies to progressively realise those rights.[43] This interpretation of a rights-based approach has certain limitations, as it requires a legal and judicial system that can adjudicate and enforce such claims even in a constraining social, economic and political environment. Nevertheless, it is a departure from traditional participatory approaches and focuses attention on how state systems can be made responsible for monitoring and ensuring respect of rights.

4.3.9 Second, in both cases, difficulties have been encountered when dealing with government. In the case of Peru, the adoption of the approach coincided with the fall of the Fujimori regime and was well received by the transitional and then new governments. However, difficulties were encountered at the level of working with public service officials. For example, there has been resistance to work with the Ombudsman who is seen as a threat by some within government, despite being a state institution. DFID India has had to negotiate with the central government about what to call the approach. A "human rights" approach was seen as too political, and as implying priority for civil and political rights. It was decided that it should be referred to as a "rights-based" approach, as this would focus more on the links to development. The "right to development" was also used as an entry point, probably

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[42] Rosalind Eyben with Usha Ramanathan, "Rights Based Approaches to Inclusive Development: Perspectives on the Implications for DFID India", IDS, October 2002.
[43] For case studies, see: Laure-Hélène Piron et al, "Chronic Poverty and Human Rights: Background Paper for the 2003 Chronic Poverty Report", ODI, first draft June 2003.

because the UN Independent Expert is an Indian national, and formerly at the National Planning Commission.

4.3.10 Third, given that the practical implementation of a rights-based approach is new, country programmes have had difficulties in finding adequate external support. For example, it has been hard to put together a team to work on rights-based approach to health in DFID India, and DFID Peru is seeking advice on how to work with other development agencies. As noted elsewhere, the gap between the development and human rights communities remain, and there are very few sources of advice with field experience that can cover both domains.

4.3.11 This limited review of DFID country programmes points to a number of challenges that remain for the further conceptualisation and implementation of the approach. The next section identifies a number of areas where further policy work is needed.

5. Challenges

5.1 The Millennium Development Goals

5.1.1 Poverty eradication is now the internationally agreed overarching objective of development assistance, measured through progress on the MDGs. The UN Committee on Economic, Social and Cultural Rights (CESCR) holds the view that "poverty constitutes a denial of human rights" and regrets that "the human rights dimensions of poverty eradication policies rarely receive the attention they deserve."[44] Although the UN human rights instruments do not directly mention poverty, the current broad definition of poverty as the lack of basic capabilities to live in dignity corresponds to a number of articles in international law, particularly in the Covenant on Economic, Social and Cultural Rights.[45]

5.1.2 The MDGs, and their predecessors the IDTs, are based on agreements reached at a series of UN conferences during the 1990s. Although the MDGs are not phrased in human rights terms, and do not refer to the results of the 1993 UN World Conference on Human Rights, they can be interpreted as setting a number of rights-based development principles.[46] In particular, the MDGs can be construed as indicators of progress on economic, social and cultural rights.

5.1.3 Though the MDGs and human rights are conceptually related, a tension remains at the level of the practice of development assistance.

- Both are objectives in themselves but the dominant view of human rights within DFID seems to be instrumental: human rights are perceived to be a means to achieving other developmental objectives and to meeting the overall objective of poverty eradication.

- Furthermore, some of the DFID strategy papers on the realisation of the MDGs, and in particular the Education TSP, put forward an interpretation of the MDGs as human rights objectives without recognising that the two are not always fully

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[44] E/C.12/2001/10, 10 May 2001, Paras 1 and 2.
[45] Ibid. para. 7.
[46] For an analysis of human rights and global social policy principles, see Clare Ferguson, 1999.

consistent. In the case of the right to education, for example, international law sets a different standard, by requiring compulsory and free primary education.[47]

- At times the relationship between the MDGs and human rights is not clear within DFID discourse, and human rights are used as shorthand to refer to economic, social and cultural rights, themselves reduced to meaning poverty reduction. The following quote, drawn from a speech given by the Secretary of State in 1998, highlights the importance she wanted to give to economic and social rights whilst making the IDTs/MDGs central to the DFID. It also illustrates how human rights can become conflated with poverty reduction.

> Government has committed itself to using our influence to seek the realisation of the social and economic rights contained in the UDHR for all the people of the world. We pledge specifically to work to secure the attainment of the international poverty eradication targets that derive from the great United National conferences of the past decade.[48]

5.1.4 This debate on the relationship between human rights and the MDGs is important because it means that, for some within DFID, there is no point in further discussing the normative value of human rights; poverty reduction already provides the overall normative objective. The instrumental value of human rights needs to be demonstrated on a case-by-case basis in policy dialogue or programming.

5.1.5 Possibly as a result of this "instrumental approach", DFID has not always been consistent in its implementation of the human rights policy at the level of country programmes. The 1997 White Paper explicitly stated that DFID would not provide government assistance where government was not committed to poverty elimination, did not have sound economic policies, was involved in conflict, or was not helping the poor realise their human rights.[49] However, in practice, this approach has not been followed consistently. On the one hand, support to governments has at times been halted in cases of gross human rights violations: for example, DFID did not provide state to state assistance to Nigeria under the Abacha regime and there are also explicit references to human rights violations in the Burma CSP: "Burma has one of the worst human rights record in Asia […] None of the criteria necessary for DFID to consider partnership with the Government are satisfied".[50] On the other hand, DFID does not always engage in a human rights dialogue when this might be necessary, for example with the Government of Vietnam, even though it provides budget support.

5.2 Compatibility with other DFID frameworks

5.2.1 The way in which the human rights policy was developed within DFID is relevant to understanding its perceived compatibility with other policy frameworks. It had support from the then Secretary of State, but was opposed by some in senior management and by some professional groups, and became associated with a particular Chief Adviser. This diversity of positions is not unusual for a new policy

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[47] Education MDG is to "Ensure that, by 2015, children everywhere, boys and girl alike, will be able to complete a full course of primary schooling". Art. 13 of the ICESCR states: "The State Parties to the present Covenant recognise the right of everyone to education (…)" (Article 13 (1)) and "that, with a view to achieving the full realisation of this right: (a) Primary education shall be compulsory and available free to all" (Art. 13(2)).

[48.] DFID, *All Human Rights For All, Secretary of State Speech,* 3rd December 1998.

[49] First White Paper, para. 2.24

[50] DFID, *Burma Country Strategy Paper*, July 2000, Para. A4.

initiative, particularly at a time when so many new policies were being developed, and professional groups "re-invented" themselves around new policy documents.

5.2.2 What has been referred to as a "silo" approach (i.e. when policies and plans are developed by departments focusing on their technical competencies rather than by focusing on the nature of the problem at hand) has had a negative impact on policies and programmes. A rivalry has been noted at both headquarters and in some field offices between, for example, the "sustainable livelihoods" approach developed by Rural Development Department and the rights-based approach promoted by Social Development Department.

5.2.3 The drafting of a separate Human Rights TSP was important as it highlighted a new policy area. However, as a result of organisational issues rather than a conceptual debate, it de-linked the human rights policy from political and legal reform issues and meant that only a certain group of advisers took real "ownership" of the policy and others, such as Governance Advisers who clearly had a role to play in helping the implementation of the policy, did not. However, it is possible to move beyond such a silo approach. For example, Rural Development Department commissioned the Overseas Development Institute to produce an analysis of the compatibility of human rights and sustainable livelihoods[51] and the Education Department is interested in exploring the practical impact of a rights-based approach.

5.2.4 Rivalries between departments has, at times, undermined the ability of staff on the ground to think collaboratively about how a rights-based approach could be interpreted locally. This seems to have been particularly the case between Social Development and Governance Departments. DFID's policy on Safety, Security and Access to Justice[52] (SSAJ, what other donors may refer to as the "rule of law" sector) does not explicitly mention human rights and provides very little practical advice, although the Governance TSP acknowledges the importance of working with state institutions that have a mandate to promote and protect rights. As a result, a field of intervention that is essential for the promotion of human rights has been "disconnected" from the implementation of the policy. This has negatively affected country programmes. In the Nigeria Access to Justice programme, for example, the Nigeria Human Rights Commission and the "Oputa panel" (a historical human rights investigation commission) were appraised as part of programme design, but were not considered to be central programme partners. At a recent workshop bringing together SSAJ programme implementers, the Nigeria team felt that they had not been given much guidance on how to integrate human rights within the programme, in particular social and economic rights, when this was being requested by some local partners.[53]

5.2.5 It has also been difficult to implement the policy outside of country programmes, particularly where there is a need for collaboration across DFID departments at headquarters. For example, DFID has developed a programme to help strengthen the OHCHR, with a focus on building core management systems.[54] However, a recent evaluation noted that whilst DFID played a major role in helping OHCHR build its basic capacity, there remains limited awareness within DFID as to the existence and role of the OHCHR (despite the fact that DFID is amongst the largest donor to the OHCHR). In addition, the assistance did not focus on helping

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[51] Norton and Moser, 2002.
[52] DFID, *Justice and Poverty Reduction*, Safety, Security and Access to Justice Policy Statement, 2000; and DFID, *Putting Policy into Practice* Safety, Security and Access to Justice Guidance Note, 2002.
[53] Laure-Hélène Piron, "Report on the DFID Workshop on Safety, Security and Accessible Justice", ODI, March 2003.
[54] DFID, *Working in Partnership with the United Nations Office of the High Commissioner for Human Rights,* October 1999.

OHCHR develop a better understanding of human rights in development or in preparing tools for development agencies. Internal organisational issues help explain this outcome, but also demonstrate the absence of a consistent understanding of human rights in development assistance within DFID.[55]

5.2.6 The above illustrates that DFID needs to have an iterative process towards its rights-based approach, by taking on board some of the limitations noted, both in terms of process and content, and by learning from ongoing DFID programmes and other donors. A priority is to build bridges between the human rights approach and policy themes that were the responsibility of the Governance Department. The negative impact on the SSAJ policy and programmes of not doing this has been noted, and puts DFID at odds with other development organisations, which do not underplay to the same extent the political and legal aspects of human rights for development cooperation.

5.3 Policy issues to be explored

5.3.1 There is still a need for DFID to support work on the operationalisation of rights-based approaches, in particular for certain professional groups such as Economists, as a contribution to general policy development and to provide practical tools for country programme managers. Four such areas are noted here.

- First, human rights, or a rights-based approach, can still play a role in policy thinking and help DFID come to terms with "new" policy challenges in its re-organised Policy Division. For example, topics which might not yet have been thought through from a rights perspective might include: the issue of discrimination in HIV-AIDS and the "right" to treatment; how the human rights framework and advocacy around rights can contribute to pro-poor political change, in the context of the "drivers of change" initiative[56]; the limitations of current approaches to development assistance in what are referred to as "poorly performing countries"; the practical value of human rights in situations of extreme or chronic poverty and systematic discrimination; or how to give due attention to the importance of human rights in post-war situations whilst moving forward with state building.

- Second, there is need for further engagement with the International Financial Institutions (IFIs) in particular as they discuss human rights. How international trade might negatively affect the national realisation of rights is already a strong topic in the Hunger TSP, which notes how international trade regimes can impact negatively on food security. The debate will not go away, and there are opportunities for DFID to engage positively, and possibly discreetly, with the IFIs.

- Third, and as a result of the above, DFID needs to think through how its "partnership approach" to development can be strengthened by a rights approach. The Rwanda MoU already provides an innovative approach through which sensitive issues can be raised. New aid instruments and tools, such as budget support, Poverty Reduction Strategies or SWAps are highly technical and are not fully understood by the human rights community. Yet, their compatibility with international human rights obligations, or constitutional provisions as in

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[55.] Piron, January 2003.
[56.] Sue Unsworth, "Understanding Incentives and Capacity for Poverty Reduction: What Should Donors Do Differently?", April 2002.

South Africa, is important to their legitimacy. Further work on PRSPs and human rights would be needed in order to build on an initial OHCHR attempt in 2002.[57]

- Fourth, within the context of "partnership approaches", and building on previous work done for DFID,[58] there would be room to discuss with Economists the impact of provisions that require "the progressive realisation of economic, social and cultural rights". They have tended to be seen as creating unlimited scope for financial demands, and not as a way of holding the state accountable for the implementation of fundamental rights through adequate policies and resource allocations. Economists still demand that the "value-added" a rights-based approach be clearly made.

5.3.2 The reform, which has re-organised DFID's Policy Division around cross-cutting teams, is to be welcomed. It aims to reduce the rivalries and tensions between professional groups, which, to a certain degree, impacted negatively on the development and implementation of a rights-based approach. However, there are concerns that, through the reorganisation, human rights has dropped off the DFID policy agenda. There is no team specifically tasked with taking work on human rights forward. Yet, Policy Division will continue to receive requests for advice on how to integrate human rights concerns in programmes and policy dialogue, both from the FCO and DFID field offices. DFID's experience is important for other development agencies and DFID will continue to be invited to international events. As noted above, a human rights framework can play a role in policy development, and certain policy teams, such as the one working on Education For All, have already expressed an interest in developing sectoral policies on human rights.

5.3.3 For all these reasons, it would be a great shame if DFID were to no longer work on human rights issues at a policy level. It needs a strong human rights focal point, with adequate resources to contribute to policy development, the capacity to learn from DFID programmes and to exchange information and views with other development agencies, research institutes and human rights organisations, both in developed and developing countries.

6. Lessons

A number of lessons and recommendations can be made on the basis of the DFID experience so as to inform the development of other donors' policies on human rights approaches to development cooperation. They are listed below.

- Drafting a policy document can be a useful process to further refine a new policy, identify ways in which it is innovative, and build consensus between different professional groups within an organisation and across government (e.g. between DFID and FCO).

- There are roughly two schools on rights-based approaches: an empowerment model and one putting more emphasis on international human rights obligations

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[57] Paul Hunt, Manfred Nowak and Siddiq Osmani, "Draft Guidelines on Poverty Reduction Strategies and Human Rights" OHCHR, first draft June 2002.
[58] Andy Norton and Diane Elson, "What's Behind the Budget? Politics, Rights and Accountability in the Budget Process", Overseas Development Institute, 2002. The paper was explicitly commissioned in order to challenge the view that a rights-based approach necessarily entailed unlimited claims on budgets.

and strategies to realise them. Agencies should draw on both, and not see them as mutually exclusive, as this will undermine the overall approach.

- It is essential to have support from ministerial and senior management levels within the organisation but this is not sufficient. "Champions of change" and supporters are needed at different levels in the organisation.

- Whilst a new policy needs a strong champion within the organisation, it may become counterproductive if the resulting policy is associated too closely with a specific person or group or comes to be seen as a "competing" framework.

- There are some pitfalls when support for/opposition to the policy becomes institutionalised between rival professional groups. The policy development process should create space to discuss how the approach is compatible with, and even complements, other approaches.

- Policy development is not static and is not completed once an overall document on human rights and development is produced. Opportunities to hear feedback on the policy, projects to further concretise the approach (e.g. PRAMs project) and mainstreaming into other policy areas or sectors can enrich the approach and make it more relevant for staff on the ground (e.g. education and rights).

- In addition to developing an intellectually sound policy document, it is important to ensure adequate dissemination of the document to relevant staff, accompanied by training and discussion sessions. Ideally, the document should identify how it is a response to the current needs of staff, and not be seen as a new additional requirement.

- Training in international human rights law and how to apply it at a national level, as well as other introductory readings on rights, will be important for development officials who are unlikely to have a background in this approach. Conversely, lawyers who might be engaged in the development of such an approach will need to have, or gain, practical development cooperation experience. With both initiatives, the aim should be to "build a bridge" between two communities which tend to have different discourses and policy frameworks.

- There is a need to avoid falling into two pitfalls when implementing a new rights policy. On the one hand, although it may be possible to develop rigid procedures to ensure the implementation, this would not be helpful as (i) the operationalisation of rights approaches is still under way and new tools are being developed, and (ii) a rights-approach needs to be in tune specifically with the local context and tools may need to be developed locally rather than imposed by donor agencies. On the other hand, leaving the implementation of a rights-based approach to individuals within country programmes means that the policy will not be seen as being truly embedded within the organisation, and cross-programme learning and policy development might suffer.

- There is a need for continued cross-learning between donor agencies. This will benefit agencies and Ministries in the process of developing approaches (e.g. Canadian International Development Agency), as well as agencies which have already adopted such an approach, but which are probably now at a stage of needing to evaluate the impact achieved (e.g. DFID or the Swiss Agency for Development Cooperation).

Annex I List of persons interviewed

1. Persons interviewed for this research in March 2003

Michael Anderson, Senior Justice Adviser, Governance Department, DFID

Tim Conway, Research Fellow, Overseas Development Institute

Dr Ros Eyben, Development Studies Institute, University of Sussex, formerly Chief Social Development Adviser (lead for the development of the human rights policy)

Clare Ferguson, Social Development Adviser, Social Development Department, DFID (human rights lead until 2002)

Sharon Harvey, Food Security Adviser, Rural Development Department, DFID

Julia Hausermann, President, Rights and Humanity (author of background paper on human rights for DFID in 1997)

Rachel Hinton and Adaeze Igboemeka, Education Department, DFID (human rights)

Julian Quan, Land Policy Adviser, Rural Development Department, DFID

Dennis Pain and Gita Sabharwal, Social Development Advisers, DFID India

Marfil Franke, Social Development Adviser, DFID Peru

Paul Spray, Head of Research, DFID

Geeta Unnikrishnan, Social Development Adviser, Social Development Department, DFID (human rights lead)

2. Persons previously interviewed

Vince de Bueno, Access to Justice Programme Manager, British Council / DFID Nigeria

Annabel Gerry, formerly Human Rights and Justice Adviser, Governance Department, DFID (involved in developing the human rights policy)

Sarah Maguire, Senior Human Rights Adviser, Conflict and Humanitarian Affairs Department, DFID

Kevin Lyne, First Secretary, Foreign and Commonwealth Office, Geneva

Caroline Moser, Senior Research Associate, Overseas Development Institute

Andrew Norton, Acting Chief Social Development Adviser, Social Development Department, DFID

Roger Wilson, Chief Governance Adviser, Governance Department, DFID

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Annex III: Human Rights References in the Target Strategy Papers

This Annex reviews the extent to which different policy documents reflect a commitment to a rights-based approach. Although most do mention human rights, only a few make references to the international human rights framework and go beyond just talking about a right to "x" (something desirable) by thinking about the practical implications of using a rights framework. Such a selective textual analysis is of course insufficient to understand the extent to which DFID's rights-based approach has influenced other policies. It should be complemented by a review of the impact on the Human Rights TSP on policy dialogue and country programmes.

The analysis is based on a division of responsibilities within DFID's Policy Division that predates changes that occurred in April 2003, whereby departments lost their importance and new cross-cutting "policy teams" were formed with staff from different professional backgrounds.

Social Development Department has been leading work on women and children's issues, and the key policy papers in these areas are based on human rights analysis. The **Gender TSP** notes that the struggle for gender equality is part of a wider struggle for all human rights for all, in terms of equality of opportunity for women and equity of outcomes. Women should have equal rights and entitlements to development, and the exercise of these rights should lead to outcomes that are fair and just. Although it notes that the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Beijing Declaration form the IDTs framework for gender equality, the TSP is not constructed around CEDAW obligations and monitoring of its implementation. It does however mention the rights of the child, and sets implementation of the Convention on the Rights of the Child (CRC) as an objective. The **Children's Issues Paper** (on child poverty) is centred on the CRC as a strategy to combat poverty. It not only notes that children have inherent rights to survival, development and an adequate standard of living but also draws attention to the responsibilities of both the state and families to ensure the realisation of those rights through adequate policies and practice.

The **Education TSP** recognises that education is a human right and notes that "the human cost of failing to enable all people to realise the right to basic education on an equitable basis are incalculable." It refers to the UDHR and CRC but not to Art. 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). It argues that progress in realising the right to education contributes to the attainment of other rights, for example improved health outcomes. It makes a commitment to developing a better understanding of a rights-based approach to Universal Primary Education, including monitoring of CRC's Art. 28, but there is no mention of domestic enforcement mechanisms of the right to education.

The document argues that funding agencies also need to deliver on the commitment made in Dakar that no country seriously committed to Education for All will be thwarted by a lack of resources, which can be achieved either through better use of existing resources or international assistance. The document notes that support through Sector-Wide approaches (SWAps) requires new ways of working and recommends that a Code of Conduct be developed to ensure that both governments and funding agencies are clear on their roles and responsibilities and joint commitments. It refers to the EU's Code of Conduct for Education Sector Funding Agencies. The TSP thus builds on important elements of a rights framework: the CRC and by identifying state obligations, including that of donors.

The **Food Security** TSP describes food as a human right, as enshrined in international conventions (ICESCR Art. 11 and CRC Art. 24(2)(c)) and in international jurisprudence (General Comment 12 of the Committee on Economic, Social and Cultural Rights - CESCR).[59] However, the references in the TSP to "International" as opposed to the "Universal" Declaration on Human Rights and to the CESCR are incorrect, illustrating how DFID as an organisation is still not fully familiar with the rights framework. The concept of the right to food is, however, usefully carried through in the document, by illustrating how the state has a responsibility to realise this right, by promoting economic, social and institutional means to ensure *access* to food, and by drawing out obligations falling on the international community. For example, there is an analysis of the negative impacts of aspects of food aid and of trade strategies. The document also advocates for a better integration of poor people's perspectives into Poverty Reduction Strategies (PRS) which often highlight the importance of hunger.

The **Land Policy Consultation Document** is an extremely strong document from a rights perspective. It notes that there is no right to land *per se* in the international human rights framework, but that the right to land can be derived from the right to shelter and the right to livelihoods.[60] It distinguishes between "rights" and "titles" to land and argues that policies advocating for tenure reform through formal land titling might impact negatively on the poor, whereas legal protection of legitimate claims to land can also increase land security without adverse effects. This approach predated the human rights TSP: in some countries, DFID was already assisting civil society organisations campaigning against formal land titling policies advocated by international financial institutions, so as to promote debate on how land reform could be made "pro-poor".

In one version of the consultation document, a box provided an in-depth analysis of what a rights-based approach to land means. It also illustrated the practical differences in adopting a rights-approach, for example: make legal provision to capture or formalise legitimate customary rights in formal law, reform land policies to protect the rights of marginalised groups, offer legal representation for the poor to claim their land rights, ensure accessible and transparent arrangements for land administrations, and guarantee the representation of civil society groups on land boards and land commissions. Few of the other policy documents are this specific.

Other policy documents include a mention of rights. The **Health TSP** mentions health as a fundamental human right reflected in the UDHR, but it does not mention ICESCR's Art. 12.[61] It could have used the rights framework further, for example by phrasing reproductive health targets in terms of reproductive rights, and there is no reference to General Comment 14.[62] The **Water TSP** recognises the right to enjoy healthier and more productive lives,[63] which requires access to safe water and sanitation, and, in this context, CRC's Art. 24(2)(b) is quoted. The **Urban Poverty TSP** notes that urban centres are often areas of social exclusion where rights cannot be claimed (for example given the lack of formal property rights) and argues that

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[59] Committee on Economic, Social and Cultural Rights General Comment 12 "The right to adequate food (Art.11)", 1999, E.C.12/199/5.
[60] The notion of a "right to livelihoods" is problematic. Livelihoods is a recently developed concept and there is no internationally recognised right to it. However, aspects of livelihoods are certainly included in the international human rights regime, such rights to as to food or to an adequate standard of living as in ICESCR Art. 11.
[61] DFID, *Better Health for Poor People*, November 2000
[62] Committee on Economic, Social and Cultural Rights General Comment 14 "The right to the highest attainable standard of health", 2000, E.C.12/2000/4
[63] DFID, *Addressing the Water Crisis: Healthier and More Productive Lives for Poor People*, March 2001

DFID should encourage participation in the process of urban development so that the urban poor can claim their rights.[64]

Other policy documents only mention rights in passing, rather than identifying how a different approach might be required to help realise those rights, and highlighting some of the dilemmas that DFID faces in attempting to do so. The **Poverty Reduction and Governance TSPs** state that supporting measures to empower the poor to claim their rights was a priority but do not discuss how to do so in relation to international and national obligations. Justice policy documents, produced by Governance Department, do not fully explore the relationship between safety, security and access to justice and human rights. The **HIV-AIDS Strategy** acknowledges the need to deal with stigma and discrimination, the rights of people to control their own sex lives, and the rights of information and training about HIV-AIDS.[65] However, the term "rights" seems to be used to refer to desirable claims as opposed to formal entitlements. The document does not engage in a discussion about how human and legal rights can be used to combat discrimination and ensure equal access to treatment and prevention, and the challenges these would pose to governments.

The **Middle Income Countries Issues Paper** does note that progress on poverty reduction will require that governments adopt policies that uphold the human rights of all citizens.[66] The paper also discusses the impact of inequality, social exclusion and discrimination, but makes no reference to the strong regional human rights mechanisms (in Europe and the America) and to the human rights reforms directly related to the process of European integration. Furthermore, there is no discussion of the impact of trade liberalisation on vulnerable groups, such as indigenous peoples.

Finally, some DFID policy documents do not mention human rights at all, for example, the **Environment TSP**.[67]

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[64] DFID, *Meeting the Challenge of Poverty in Urban Areas*, April 2001.
[65] DFID, *HIV/AIDS Strategy*, May 2001.
[66] DFID, *Eliminating Global Poverty: The Middle Income Countries*, November 2001.
[67] DFID, *Achieving Sustainability: Poverty Elimination and the Environment*, October 2000.