

The Development Dimension

Integrating Human Rights into Development

DONOR APPROACHES, EXPERIENCES
AND CHALLENGES



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LES APPROCHES DES DONNEURS, LEUR EXPÉRIENCE ET LES DÉFIS À RELEVER

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Foreword

In recent years human rights and development have been converging. There is growing recognition of links between rights violations, poverty, exclusion, environmental degradation, vulnerability and conflict. As a result, many OECD member countries and multilateral donors now look at human rights more strategically, as a means for improving the ways they deliver and manage aid and the quality of development co-operation more broadly. Some have adopted human rights-based approaches to development. Others have preferred to integrate human rights explicitly or implicitly into various dimensions of their development work, especially into their governance agendas.

The OECD Development Assistance Committee (DAC) acknowledged the importance of human rights for development already in 1993 in its “DAC Orientations on Participatory Development and Good Governance”. Eight years later, the DAC Guidelines on *Poverty Reduction* made numerous references to human rights, highlighting both the deprivation of human rights as an important aspect of a multidimensional notion of poverty and the importance of human rights principles such as participation and empowerment for pro-poor outcomes. These achievements notwithstanding, in 2004 the DAC Network on Governance (GOVNET) came to the conclusion that the nexus of development and human rights deserved a more systematic investigation. More specifically, GOVNET set out to enhance understanding and consensus among donors on why and how to work more strategically and coherently on the integration of human rights into development.

However, if donors are to overcome the difficulties inherent in this type of work, they must share – and analyse – their experiences. This publication seeks to contribute to this process. It reviews the approaches of different donor agencies and their rationales for working on human rights. Based on a thorough examination of policy, guidance and operational documents, evaluations and other analyses of practical

experience as well as a large number of interviews with donor agencies, it identifies the current practice in this field and looks at the common elements of that practice. It illustrates how aid agencies are working on human rights issues at the programming level. It draws together lessons that form the core of the current evidence around the “added value” of human rights for development. Lastly, it addresses both new opportunities and conceptual and practical challenges to human rights in connection with the evolving development partnerships between donors and partner countries and the workings of the international aid system more broadly.

The research for this publication was mainly based on desk reviews of existing documents, complemented by interviews with a range of donor agencies. In addition, a number of academic papers, presentations, workshop reports, and other contributions to thinking on human rights-based approaches and human rights in development informed the analysis.

However, this publication is not intended to be in any way an exhaustive review of all experiences: it is necessarily selective in its coverage. The choice of practical examples results from the availability of suitable and recent documented experience and does not imply the absence of similar initiatives in other donor agencies. Some relevant studies were not finalised when the manuscript was completed. Therefore, this publication should be read as a snapshot of where donors were at the end of 2005 on an issue that continues to evolve with considerable momentum.

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A team of OECD staff prepared this publication: Sebastian Bartsch acted as the main editor, while Carola Miras and Misha Pinkhasov provided advice and practical assistance on all stages of the publication process. Invaluable external editorial assistance was contributed by Laura Boutin. We thank them all.

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Acronyms and Abbreviations

AusAID	Australian Agency for International Development
CCA	Common Country Assessment (UN)
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CIDA	Canadian International Development Agency
CRC	Convention on the Rights of the Child
DAC	Development Assistance Committee (OECD)
DFID	Department for International Development (UK)
EC	European Commission
EIDHR	European Initiative for Democracy and Human Rights (EU)
EU	European Union
GOVNET	Network on Governance (DAC)
HRBA	Human rights-based approach
HURIST	Human Rights Strengthening Programme (OHCHR/UNDP)
ILO	International Labour Organization
KfW	German Development Bank
MDG	Millennium Development Goal
NGO	Non-governmental organisation
Norad	Norwegian Agency for Development Cooperation
NZAID	New Zealand Agency for International Development
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the UN High Commissioner for Human Rights
PRSP	Poverty Reduction Strategy Paper
SDC	Swiss Agency for Development and Cooperation
Sida	Swedish International Development Cooperation Agency
UN	United Nations

UNDAF	United Nations Development Assistance Framework
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNICEF	United Nations Children’s Fund
UNIFEM	United Nations Development Fund for Women
USAID	United States Agency for International Development
WHO	World Health Organization

Preface

During my term as United Nations High Commissioner for Human Rights, and presently in my work with Realizing Rights: The Ethical Globalization Initiative, I have tried to highlight the urgent need for human rights and development advocates to work more actively together to eliminate poverty and promote sustainable development. The good news is that efforts to build bridges between the worlds of human rights and development are gaining momentum. Much has been achieved in the last decade, even if a great deal more must be done before we can really assert that human rights play a practical operational role in reducing poverty, or agree that the development and human rights approaches really do share the same values as well as complementary and compatible methods.

While development priorities such as education, adequate housing and health care are increasingly seen in terms of human rights, this implies that donors and partner countries must think in new ways about how they deliver and manage aid and develop their partnerships. I am encouraged by the progress that many donor agencies, both bilateral and multilateral, have made in recent years in integrating human rights principles and legal obligations more strategically into development thinking and practice. These innovations – ranging from policies and programming approaches to practical tools and internal institutional reforms – have started to show real results in the lives of people around the world.

Yet despite the encouraging policy and operational advances, ensuring that attention to human rights is part of the design, implementation and monitoring of global and sectoral policies, country strategies, and individual programs and projects remains a work in progress. More conversation and collaboration needs to occur between people working in human rights and in development before good understanding is achieved. Development experts need to come to that dialogue with an open mind – ready to see the international human rights

agenda as a legitimate and internationally agreed framework that adds value to their work. The human rights community has more work to do to show *operationally* where human rights methods and principles can most usefully be applied to development challenges. This heightened collaboration is all the more needed because of the changed context of donor co-ordination under the Paris Principles, with joint assessment strategies at national level. Increased emphasis on providing general budget support to developing countries will also require intensified support to parliamentarians and civil society groups who can hold their governments accountable for policies that progressively implement without discrimination rights to health, education and food security among others.

I welcome this publication, the most comprehensive and up-to-date of its kind, as an invaluable tool in promoting further engagement between human rights and development professionals and organizations. Without concealing the challenges, it shows that the progress to date has been significant. It makes the case that attention to human rights can improve development related decision-making and effectiveness. By providing a rich array of practical cases, ranging from fully integrated human rights-based approaches to implicit human rights work, it shows the ways forward. I hope it will be widely read and its practical lessons and recommendations applied in the years ahead.



Mary Robinson

Former President of Ireland

Former United Nations High Commissioner for Human Rights
Founder and President, Realizing Rights: The Ethical Globalization Initiative

Executive Summary

Human rights have become an important aspect of development policy and programming since the end of the Cold War. The 1993 Vienna World Conference on Human Rights, the 2000 Millennium Summit and the 2005 World Summit all recognise that development and human rights are interdependent and mutually reinforcing. The UN Secretary-General’s conception of “In Larger Freedom” encapsulates the inter-linkages between development, security and human rights:

We will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights. Unless all these causes are advanced, none will succeed.

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

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

This publication, based on a study commissioned by the DAC Network on Governance (GOVNET), reviews the approaches of different donor agencies and their rationales for working on human rights. It identifies the current practice in this field and draws together lessons that form the core of the current evidence around the contribution of human rights to development. It discusses both new opportunities and conceptual and practical challenges to human rights that concern the development partnerships between donors and partner countries, and the workings of the international aid system more broadly.

Donor approaches

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

Agencies have adopted different rationales for working on human rights. Some prefer not to work on human rights explicitly, in light of legal, political or empirical issues. However, research and multi-disciplinary exchanges can inform the further development of policies and their operationalisation.

The integration of human rights into development takes place in various forms. The most common form of assistance has traditionally been projects, directly targeted at the realisation of specific rights, specific groups or in support of human rights organisations. A more strategic use of human rights can be found in the design of country programmes and global initiatives. Other well-established practices are mainstreaming of human rights into all sectors of existing aid interventions and including human rights issues in the political dialogue between donors and developing countries. A number of agencies are moving to human rights-based approaches, which require institutional

change in the provision of aid. In some agencies that are not explicitly using a human rights framework at a policy level, an implicit integration can be identified.

Programming experiences

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

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

Although there is an emphasis at a policy level on the positive place of human rights, a degree of human rights conditionality remains a feature of development programmes. In extreme cases, when other methods (including dialogue processes) fail, aid may be suspended or terminated. However, new ways of looking at aid allocations, policies and modalities create opportunities to revisit this area.

Preliminary lessons

Based on experiences, it has been possible to draw up a set of preliminary lessons concerning the contribution, or added value, of human rights for development.

The intrinsic value of human rights offers development actors an explicit normative and analytical framework, grounded in a consensual global legal regime. The framework can be adapted to different political and cultural environments. In some countries, it has been possible to overcome political constraints by taking a more gradual and implicit approach. Operational human rights principles have made it easier to integrate human rights into actual programming. In fact, it has been possible to integrate human rights (using principles derived from the human rights framework) without an explicit approach, as can be seen in the work of some of the international financial institutions. The downside of this strategy is that it increases the risk of “rhetorical repackaging”, which occurs when the distinction between the use of operational principles which might be tangentially related to human rights and interventions specifically grounded in the human rights framework is blurred.

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

Human rights can enhance the design and impact of aid in terms of poverty reduction goals, building on the commitments of the 1995 Copenhagen and other UN summits. One analytical value of human rights is that it provides a lens to examine the structural and root causes of poverty, such as a focus on inequality and exclusion as major barriers to poverty reduction. It also calls for a better understanding of the context and power relations within which aid operates. The principles of equality and non-discrimination focus attention squarely on excluded and

marginalised individuals and groups (and underline the centrality of disaggregated data).

Finally, human rights also contribute to enhancing the effectiveness of aid, in particular through the explicit recognition of its political dimensions. Because human rights are grounded in the domestic responsibilities of states, aid agencies have found that the approach has helped them to move away from roles as direct providers of services towards a capacity development role. The interdependence and indivisibility of all human rights has encouraged holistic approaches, for example greater collaboration across related sectors or institutions.

Donors have built new partnerships and found supportive ways of facilitating domestic change processes. A number of these contributions are not new to the development world; what human rights offer is a coherent, normative framework which reinforces “good programming practices”, such as participation, by making them non-negotiable, consistent and legitimate.

Challenges and opportunities

There are three main challenges with which donors have to engage, in order to further integrate human rights into development.

First, aid agencies need to deepen their institutionalisation of human rights considerations, looking at their systems, procedures and staff incentives and allocating adequate resources to better translate their policies into practice. Several factors contribute to success in this area: a supportive international and domestic political context; senior-level commitment, accountability and communication; a strengthening of staff capacities and incentives; provision of new tools and procedures; and adaptation to a decentralised context. However, many agencies acknowledge that they need to invest more in knowledge management to inform their policy development and improve the basis for harmonised policies and approaches.

Secondly, aid agencies have found engagement with partner countries difficult because of their weak capacities in implementing human rights. Agencies also face political barriers, in particular when their partners’ commitment is weak or when there is overt resistance to human rights. Practitioners working on fragile states and human rights share a common interest in the prioritisation of key features of the state: the legitimacy and accountability of state structures and the state’s ability

to create an enabling environment. Human rights can also offer analytical and operational approaches for donor engagement in these difficult environments. Member states made a commitment, at the UN 2005 World Summit, to integrate the promotion and protection of human rights into national policies. This provides an entry point to strengthen the national ownership of human rights in the context of development partnerships, in particular around poverty reduction strategies.

Thirdly, aid agencies now need to push for the integration of human rights into thinking and practice around new aid effectiveness processes, instruments and modalities of aid delivery. Techniques that contribute to the Millennium Development Goals (MDGs) include linking the goals to specific human rights standards; drawing on the Millennium Declaration, which makes explicit reference to human rights; and adopting human rights-based approaches towards meeting the MDGs. Unfortunately, there is little written at present on aid alignment and harmonisation from a human rights perspective, although the 2005 Paris Declaration on Aid Effectiveness calls for harmonised approaches to cross-cutting issues. There is a great deal of congruence between human rights and a number of aid effectiveness principles, such as strengthening partner countries' capacities, greater transparency, managing for results and policy coherence. Human rights analysis already affects both aid allocations and the choice of aid modalities, and has a role to play in mutual accountability frameworks, in particular in holding aid agencies themselves to account.

Part I

Analytical Perspectives

Chapter 1

Donor Approaches

***Abstract.** Human rights have become an important aspect of development policy and programming. This trend is reflected in the human rights policies that a growing number of bilateral and multilateral aid agencies have adopted over the past ten years. This chapter reviews donor approaches and rationales for working on human rights. The analysis shows that human rights work is considered as an objective in its own right, as constitutive of development, and as contributing directly to objectives pursued by donors in the areas of governance, poverty reduction and aid effectiveness. Donor approaches to implementing policies are categorised in a five-part typology, ranging from implicit human rights work to human rights-based approaches. Legal and political constraints and empirical challenges to the further development and implementation of human rights policies are highlighted.*

Policies

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

Table 1 illustrates how the majority of agencies surveyed have either adopted human rights policies, or are in the process of developing or updating them in light of experiences gained over the past ten years. By comparison, there are fewer agencies with no human rights policies at all. Agencies without explicit policies may still refer to human rights in other documents, or work on human rights in indirect ways, as is examined below. (The table is not intended to be comprehensive.)

Rationales

Why have agencies adopted such policies? The main reason is the changing international context. Human rights remained a highly politicised issue during the Cold War, with a division between states which prioritised civil and political rights, and those which promoted economic, social and cultural rights. At the 1993 Vienna World Conference on Human Rights, a consensus was reached that recognised that “All human rights are universal, indivisible and interdependent and interrelated” (UN, 1993), implying that states and their aid agencies should not prioritise one set of rights over the other. The Vienna Consensus also affirmed that

Democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing ... The international community should support the strengthening and promoting of democracy, development and respect for human rights and fundamental freedoms in the entire world. (UN, 1993)

Table 1.1 Policy statements on human rights and development

Type	Illustrations
No overall human rights policies	Asian Development Bank; World Bank; World Health Organization; US Agency for International Development; Australian Agency for International Development
References to human rights limited to sector policies	US Agency for International Development (internally displaced people, trafficking, civilian protection)
Established human rights policies	Canadian International Development Agency (1996); Swiss Agency for Development and Cooperation (1997); Swedish International Development Cooperation Agency (1997); United Nations Development Programme (1998a); UNICEF (1998); Ministry for Foreign Affairs of Finland (2000); UK Department for International Development (2000a); European Commission (2001); Netherlands Ministry of Foreign Affairs (2001); New Zealand Agency for International Development Cooperation (2002); German Federal Ministry for Economic Cooperation and Development (2004); United Nations Population Fund (2004); United Nations Development Fund for Women (2004a)
Recently or currently developing "second-generation" policies	UNICEF (2001); various UNDP Practice Notes (since 2003); Ministry for Foreign Affairs of Finland (2004); Sida, following Sweden's new "global policy" (Government of Sweden, 2003b); Swiss Agency for Development and Cooperation (2006); CIDA following the Canadian Government's new international policy statement (CIDA, 2005a); Austrian Development Cooperation (2006a); Dutch draft paper on the human rights-based approach (to be finalised by end 2006)
Inter-agency or multilateral agreements on or referencing human rights and development	UN "Vienna Human Rights Declaration and Programme of Action" (1993); UN "Millennium Declaration" (2000); OECD DAC Guidelines on Poverty Reduction (2001); "UN Interagency Common Understanding of a HRBA" (2003); UN "World Summit Outcome Document" (2005a)

As is illustrated by the 1997 DAC statement that “Respect for human rights is seen as an objective in its own right but also as a critical factor for the longer-term sustainability of development activities” (OECD, 1997a), there are two main rationales for agencies’ work on human rights as part of development co-operation.

Intrinsic rationale

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

All states party to the relevant international human rights instruments have a duty to promote and protect human rights, including through international co-operation. The UN, which is the guarantor of the international human rights system, has since 1997 worked to mainstream human rights in all its activities. The 2005 UN World Summit called for further mainstreaming of human rights throughout the UN system, strengthening of the Office of the High Commissioner for Human Rights (OHCHR) and closer co-operation between OHCHR and all relevant United Nations bodies (UN, 2005a). The 2003 UN interagency definition of a human rights-based approach (HRBA) explicitly states that development co-operation should further the realisation of human rights as laid out in international human rights instruments (Box 1.1). A number of bilateral agencies have also adopted the view that development and human rights are interlinked and that aid should be used to foster human rights objectives.

Not all aid agencies accept that they are under a legal obligation to promote and respect human rights through their assistance, and intrinsic arguments are not limited to legal ones: the concept of humanity underlying the human rights framework is a strong factor behind most policies. Ethical arguments thus drive a positive association between human rights and aid, centred around human dignity and the need to combat poverty. Political factors can also drive agencies to integrate human rights. For example, when there is public outcry over substantial amounts of aid given to governments using excessive force against their own citizens or involved in ethnic discrimination.

Box 1.1 UN Interagency Common Understanding of a HRBA

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

* The human rights principles identified in this agreement are: universality and inalienability; indivisibility; interdependence and inter-relatedness; equality and non-discrimination; participation and inclusion; accountability and rule of law.

Intrinsic reasons also include arguments where the realisation of human rights is seen as constitutive of development:

- Drawing on Sen’s capabilities framework (1999), the Human Development Report 2000 highlights the common vision and common purpose of human development and human rights “... to secure the freedom, well-being and dignity of all people everywhere.” (UNDP, 2000)
- The multi-dimensional definition of poverty in the DAC Guidelines on *Poverty Reduction* maps on to the various human rights codified under the international framework (OECD, 2001). These guidelines and other DAC documents describe human rights, alongside governance, democracy and the rule of law, as part of the qualitative elements of development.
- The World Bank’s *Voices of the Poor* reports confirmed that poor people cared about civil and political rights, such as safety and security, as much as food and water, and that these were legitimate poverty reduction goals (Narayan *et al.*, 2000a; 2000b; Narayan and Petesch 2002).

As aid agencies have become more familiar with the human rights framework, human rights organisations too have started to address poverty and development more directly. The Office of the United Nations High Commissioner for Human Rights has taken a particular

interest in poverty reduction, and international human rights NGOs are increasingly addressing economic, social and cultural rights.

Instrumental rationale

Instrumental reasons recognise the place of the international human rights framework, but in addition argue that a focus on human rights can improve development aid, security and other important international issues. Starting from a traditional focus on civil and political rights, the integration of human rights in development can contribute to good governance.

For some agencies, such as the Swiss Agency for Development and Cooperation (SDC), Austrian Development Cooperation and the Canadian International Development Agency (CIDA), human rights are defined as a sub-category of governance. For other agencies, human rights, democracy and the rule of law are seen as additional domains to a more technical core definition of governance around the management of public resources (European Commission, 2001). The human rights principles of accountability, rule of law and participation are seen as contributing to more effective, legitimate and accountable governance. The Swedish International Development Cooperation Agency (Sida) closely links democracy and human rights objectives. It considers that poverty, understood in its broadest sense, is a state where almost all human rights are violated, and that a lack of democracy leads to greater poverty in the long term. Under the umbrella of “democratic governance”, Sida supports initiatives on human rights, democratisation, rule of law, people’s participation and good governance, all of which are seen to contribute to poverty reduction and to highlight the political dimensions of development.

Integrating human rights into development co-operation can also help to achieve more effective poverty reduction and social outcomes. A commitment to human rights calls for urgent steps to tackle extreme poverty and social exclusion, which violate human dignity and the human rights of the poorest. The 1995 Copenhagen World Summit on Social Development set out international commitments in this area. A focus on vulnerable and excluded groups and the principles of universality, equality and non-discrimination, participation and inclusion are particularly relevant here. The UK Department for International Development (DFID) has emphasised an empowerment approach aimed at participation, inclusion and realising the rights of the very poorest

(DFID, 2000a). SDC's recently updated policy strengthens its commitment to empowerment and participation by explicit reference to human rights (SDC, 2006). The World Bank's recent social development policy (2005a) is based on its experience that inclusion, cohesion and accountability make development interventions more effective and sustainable.

Finally, agency statements often argue that a focus on human rights can improve the coherence, quality and effectiveness of aid. For example, Dutch policy highlights the links between human rights, foreign policy and development, and the use of political instruments to achieve both human rights and development objectives.

Policy challenges

Donor agencies do not endorse the rationales put forward for working on human rights and development to the same degree. Some agencies point to legal constraints. For example, some are concerned that there may be conflicts with their mandate if they work explicitly on human rights and cite states' legal obligations. This is the case for the World Bank, where human rights have traditionally been seen as "political"; or it is argued that existing human development initiatives already contribute to economic and social rights without needing to develop a new policy framework (World Bank, 1998). In general, Bank policies rarely mention the human rights framework explicitly, although borrowing country environmental obligations under international law are mentioned in the Bank's Operational Policy on Environmental Assessment (World Bank, 2004a). This suggests that it is possible for the Bank also to make reference to borrowing countries' other obligations under international law, including human rights obligations. The Bank's former General Counsel recently discussed the Articles of Agreement. He noted how the Bank's multidimensional conception of poverty and social equity has strong human rights dimensions, and that, in his opinion, the Bank "... can and should take into account human rights in the process it uses and the instruments it relies on to make economic decisions." (Dañino, 2005)

Legal constraints are often related to political ones. Domestic political environments in donor countries may be more or less conducive to grounding aid in an international human rights framework. For example, Sweden's new global policy, which requires that a "rights perspective" be integrated into all aspects of foreign policy (including

aid), contrasts with that of the United States, where there is a more selective endorsement of the international human rights framework, illustrated by the non-ratification of the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, and other international instruments. This means that the poverty reduction efforts of USAID cannot be conceptualised from the perspective of economic and social rights and state obligations.

Even in such circumstances, aid agencies have still been working either on aspects of the human rights agenda (either narrowly on civil or political rights, or without using an explicit human rights language), or are currently considering how to adapt their policy frameworks. Processes of stocktaking or mainstreaming of human rights work (without an overarching policy) are some of the entry points (Box 1.2).

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

There are a number of empirical challenges to the further development or implementation of agencies' human rights policies. Some aid agency staff consider that aid or national policies based on human rights standards may constrain, rather than facilitate, poverty reduction, conflict resolution or other objectives. Peace or health outcomes may be hindered by paying attention to the processes to reach those outcomes, social spending on economic and social rights goals can slow economic growth, and labour standards can result in incentives that have a negative impact on growth (for example, if minimum wage is set too high, or the cost of health and safety standards for employers is prohibitively expensive).

Box 1.2 Entry points for human rights in the absence of policy statements

“Protection from abuse”, whether in international conflicts, people trafficking, internally displaced people or the rule of law, is an entry point for USAID, which has recently compiled a list of human rights interventions and has appointed human rights advisers in its Office of Transition Initiatives.

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

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

Pragmatic and empirical challenges are more amenable to evidence-based discussions than legal and political ones. Research and multi-disciplinary exchanges can contribute to the development of policies and their operationalisation, so as to reach a wider set of agency staff and partners (Box 1.3).

Box 1.3 Building the evidence base for human rights policies

The Asia-Pacific Regional Office of the High Commissioner for Human Rights developed the Lessons Learned Project (in collaboration with several other organisations) to help integrate human rights policy and practice in all UN activities. Project staff have culled programmes and projects of the UN system and its many partners for experiences in using a human rights-based approach to development. Project activities include writing up the lessons learned (both positive and negative), creation of an internet-based data collection of human rights-based projects to use as good practice models and provision of assistance UN Country Teams across the region.

The project has already established the Practitioners Forum on Human Rights in Development which brings together about 40 development practitioners from UN agencies, NGOs and development co-operation agencies to discuss their experiences in integrating human rights into development programmes. Current activities include piloting projects across the region on HRBA with select UN partners and writing a handbook that looks at the relationship between HRBA and development in advancing peoples' rights.

The World Bank is investing in empirical work to demonstrate the links between human rights and growth in order to debunk the perception that human rights are inimical to growth and provide justifications that Bank staff (who are predominantly economists) will accept. The World Bank Institute has found that “there are consistent, statistically significant and empirically large effects of civil liberties on investment project rates of return”, that state capture impairs socio-economic development and that “the extent of capture and crony bias is related to the degree of civil liberties in a country” (Kaufmann, 2005). The Legal Department is now studying human rights indicators, economic justifications for the protection of human rights, and the International Covenant on Economic, Social and Cultural Rights.

From policy to practice

Agencies have adopted different approaches to implementing policies, reflecting their mandates, policy frameworks and principal modes of engagement. Table 1.2 offers a framework to categorise these approaches.

Table 1.2 Donor approaches to integrating human rights

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

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

Human rights-based approaches indicate a stronger commitment to systematically taking human rights into account. Ultimately, this calls for a transformation of institutional practices. Projects, mainstreaming and dialogue/conditionality are part of the implementation menu, but the overall rationale is usually different. In the UN definition, human rights are explicitly part of the goal of development assistance, leading to a different approach to the provision of aid. As one of the few recent book-length examinations of human rights and development notes:

At the highest level of integration, agency mandates are redefined in human rights terms, seeking to create a more structural and holistic approach to development and social change. Here we face a fundamental rethinking of the entire development practice: its ideology, its partners, its aims, its processes, its systems and procedures. (Uvin, 2004)

In addition to the UN system, a significant number of bilateral agencies have adopted HRBAs. Some have not redefined their mandates in human rights terms: they see the human rights policy as one amongst many, contributing to the achievement of poverty reduction and empowerment. The boundary between human rights mainstreaming and HRBA is not watertight either, as genuine efforts to mainstream across sectors rapidly lead to taking human rights into account more systematically across the organisation. The human rights mainstreaming action plan of New Zealand's Agency for International Development, for example, is very close to the UN's definition of a HRBA (Chapter 8). However, there are agencies committed on paper to a HRBA that have not invested as much in institutional transformation.

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

Chapter 2

Programming Experiences

***Abstract.** A wealth of policy and guidance documents alone would not be sufficient to establish human rights more firmly in development co-operation. Policies need to be put into practice to ensure progression from rhetoric to action. This chapter illustrates how aid agencies are working on human rights issues at a programming, as opposed to a policy or institutional, level. Following a brief review of the most common levels and types of programming (projects, country programmes and global initiatives), it examines experiences with three forms of human rights integration: application of a human rights perspective to governance areas, human rights mainstreaming across non-governance sectors, and human rights dialogue and conditionality. Findings show a growing trend of putting human rights policies into action in a more strategic manner beyond responsive projects.*

Types and levels of interventions

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

Projects

Traditionally, donors support human rights through human rights projects. Projects may aim to build the capacity of human rights organisations, provide human rights training or support the ratification of treaties and legal reform, in order to improve specific human rights outcomes. The majority of human rights projects address governance as a specific sector, and are examined below.

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

Country programmes

A more strategic form of support integrates human rights in the design of a country strategy. Chapter 6 describes three country programmes: Sida in Kenya (Box 2.1), UNICEF in Vietnam and DFID in Peru. Country-level approaches create opportunities to mainstream human rights into other sectors, for example, encouraging a focus on human rights principles (*e.g.* participation and accountability) in more technical areas (*e.g.* roads or water), or supporting the realisation of economic and social rights (*e.g.* labour standards or social protection). The relevance of human rights also comes to the fore in the use of criteria for the selection of partner countries, aid allocations and modes of delivery as well as in policy dialogue between donors and developing countries.

Box 2.1 Sweden’s Kenya programme

In Kenya, the Swedish embassy is working on human rights and democracy at three levels. First, a range of direct interventions includes work in the Governance, Justice, Law and Order sector programme.

Second, a Mainstreaming in Action project was set up to integrate human rights and democracy principles into sector programmes (such as roads, water, health, justice and agriculture). It aims to build the capacity of key actors so that they can identify and use human rights mainstreaming indicators, implement activities in a manner that promotes mainstreaming, participate in dialogue, and develop an adequate monitoring and evaluation system. Local resource persons and members of government agencies are lending their expertise.

Third, following the 2002 elections and the new political environment, the Swedish embassy launched a project to put “equality for growth” on the public agenda, by working with civil society organisations, research bodies, the media, other donors and decision makers in the Executive and Parliament. They are looking specifically at gender, regional and income inequalities. To date, the project has helped the Ministry for Planning and National Development share its poverty map with line ministries, and the ambassador has written in the press on inequality. A national conference is being planned for 2006.

Global initiatives

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

Bilateral agencies can count many successes in their funding of multilateral organisations. Examples in the UN system include the Human Rights Strengthening Programme (Box 2.2), and funding for the Princeton (2001) and Stamford (2003) consultations which elaborated the UN Interagency Common Understanding of a HRBA to development co-operation (Annex). Bilaterals have also been working with development banks, which tend not to have explicit human rights policies. For example, the World Bank’s operational document on social development (World Bank, 2005a) mentions support from Finland, Norway and the Netherlands in building donor and client country capacity for social development, including greater co-operation within the Bank and with the UN; the Japan Social Development Fund, which

has supported social accountability initiatives; and co-operation with GTZ and DFID on Poverty and Social Impact Analysis.

Box 2.2 Bilateral support for HURIST and UNICEF

HURIST, the UNDP-OHCHR Global Human Rights Strengthening Programme, has received contributions from a wide range of bilateral agencies, demonstrating their commitment to mainstreaming human rights within the UN system: Finland, Norway, Sweden, the Netherlands, Canada, Ireland, Germany, Switzerland and the United Kingdom. The programme had a budget of USD 8 million over six years and the objective of strengthening the work of the United Nations Development Programme (UNDP) in the field of human rights. It has funded UN volunteers working on human rights at the country level, the preparation of national human rights action plans and country-level programming, as well as policy development, piloting, preparation of tools and human rights programme reviews. A recent evaluation concluded that HURIST had made significant contributions to creating a UN consensus on human rights-based approaches.

The Strengthening UNICEF Human Rights-Based Programming project was launched in 2000 and is now in its second phase. UNICEF has revised programming guidelines, methodologies and training materials; provided support to regional and country-level staff; and facilitated learning across the agency. By 2005, UNICEF had completed and analysed 35 case studies, held two global consultations, completed a number of annual reviews of country programmes and conducted the Mid-Term Review of the Medium-Term Strategic Plan 2002-2005. These successes are thanks to DFID support as well as to UNICEF regular resources, as this project is fully integrated in UNICEF's work at headquarters, regional and country levels. The project is being evaluated by an independent team, to assess to what extent it has contributed to a systematically increased capacity in UNICEF.

Governance interventions

Another lens through which to examine donor experiences is to look thematically at the content and objectives of donor interventions. As governance is seen as the sector most closely associated with human rights, most aid agencies locate the issue in the governance area. There has been a wide range of civil and political rights projects, but little work on integrating human rights into other governance areas, such as public-sector reform or financial management.

Civil and political rights

Most direct human rights interventions have addressed civil and political rights issues, often under a governance heading, linked to democracy and the rule of law. Uvin (2004) estimates that this type of aid now accounts for about 10% of aid budgets. Topics may include specific rights, such as freedom of expression (*e.g.* media projects) or due process (*e.g.* rule of law programmes). Options include investing in organisations (*e.g.* national human rights institutions), processes and procedures (*e.g.* democratisation, including elections, parties, civic education) and structures (*e.g.* capacity building of state or civil society). One illustration is the European Initiative for Democracy and Human Rights (Box 2.3). However, as Carothers (1999; 2006) noted, there is still little systematic knowledge in the area of democracy support and rule of law initiatives.

Box 2.3 The European Initiative for Democracy and Human Rights

Created in 1994, the European Initiative for Democracy and Human Rights (EIDHR) is the EU's main financial instrument to implement its human rights and democracy policy, complementing geographic co-operation programmes and foreign policy tools. It funds predominantly civil society and non-governmental organisations and does not require the consent or involvement of state authorities. This allows it to operate in sensitive political contexts. During 2002-2004 nearly EUR 327 million financed activities in four areas: strengthening democratisation, good governance and the rule of the law (67% of expenses); abolition of the death penalty; the fight against torture and impunity (including support for international tribunals and criminal courts); and combating racism and xenophobia and discrimination against minorities and indigenous peoples.

An impact assessment concluded that 80% of respondents found the EIDHR had good or very good impact and had strengthened the capacity of civil society organisations. However, more work is needed in gender equality, and the EIDHR should try to be more flexible and responsive, and improve its procedures. Unfortunately, most of its money is going to Northern NGOs.

Turning to human rights projects more narrowly, policy papers and studies call for human rights activities that go beyond stand-alone civil and political rights projects and move to sector programming and mainstreaming. They often stress that support should not be limited to training and advocacy efforts but should identify strategic entry points for sustainable change and capacity development. Unfortunately,

interventions in these domains are inherently slow and political, as they challenge the use of state power and cultural or social norms.

Access to justice

The trend across a number of agencies to embrace an access to justice approach can be associated with a more strategic use of human rights. Traditional rule of law interventions have focused on building institutions by working with courts, prisons, ministries and lawyers. These can contribute to the achievement of specific rights and standards. Well-known examples include the provision of legal representation to defendants, or reducing court delays and time on remand. Such interventions also institutionalise the human rights principles of accountability and the rule of law. By including access to justice in their policy documents and programmes, donors have started to transform the way in which they analyse situations, set objectives and provide assistance (Box 2.4 and Chapter 7). This approach uses participatory research to identify poor people's priorities and tests new ways to overcome barriers. Instead of limiting interventions to enhancing the effectiveness of institutions, a people-centred perspective starts from the experiences of poor people themselves (for example, through perception surveys).

Access to justice links demand and supply activities. In particular, it focuses on the ability of poor and marginalised people to claim rights through the courts, and of the courts to deliver appropriate services to meet users' needs. It helps meet the needs of women, juveniles, isolated populations, minorities or indigenous peoples, by looking at location, language used, simplification of procedures, cultural compatibility, or the best interests of the child. Explicit human rights or constitutional standards are used to set goals and benchmarks, such as the juvenile diversion in the Convention on the Rights of the Child, or the civil liberties in the International Covenant on Civil and Political Rights.

The shift does not necessarily require explicit reference to human rights mainstreaming or a HRBA. While UNDP describes its policy in terms of implementing a HRBA, DFID does not. For USAID and the World Bank, access to justice is one possible area of intervention. Either way, it is a resource-intensive approach. Lessons from UNDP Asia-Pacific point to substantial commitments of staff time and the need to identify new partners.

Box 2.4 New access to justice policies and programmes

The Swiss Agency for Development and Cooperation is aiming to adopt a more systematic HRBA to justice reform. In South Africa, in partnership with UNDP, it has already successfully supported a Child Justice Project which has helped develop new procedures and frameworks for juvenile diversion. Austrian Development Cooperation has also contributed to child justice work, for example in Namibia.

USAID rule of law projects aim to improve the independence and performance of the judiciary, effective criminal prosecution and a reduction in delays, thereby contributing to civil rights objectives. The agency also uses an access to justice approach, for example in Bolivia, where it has facilitated the establishment of Integrated Justice Centres, providing more appropriate services for indigenous rural populations.

Other governance dimensions

There appear to be fewer examples of a policy shift touching other aspects of governance, such as explicit references to human rights in public expenditure management, public-sector reform or anti-corruption initiatives. This is possibly because human rights standards are less commonly applied in these areas, though there is clearly a need for non-discrimination in service provision, labour standards in public-service reform, and rule of law and accountability for anti-corruption measures.

Some agencies are starting to address this gap. For example, with HURIST support, UNDP has prepared a wealth of new policies and practice notes on such areas as access to justice, parliaments, police, decentralised governance, national human rights institutions, and the right to information. OHCHR and UNDP organised an international seminar on human rights and governance in Seoul in 2004.

Documented examples also suggest that sometimes human rights principles have helped agencies move beyond civil/political rights projects in their governance portfolios. Though not always couched in a human rights language, more interventions are paying attention to institutionalising participation, providing accountability and redress, and fostering a healthy relationship between the state and citizens based on recognition of rights and duties. DFID work on tax reform in Peru illustrates this (Box 2.5 and Chapter 7).

Box 2.5 Political and financial accountability in Peru

DFID has strengthened political inclusion through the review of fiscal studies (notably tax reform and budget transparency) in order to encourage greater accountability and responsiveness to poor people. The programme focused on the equity potential and accountability functions of fiscal policy (ensuring that resources reach excluded groups) on the expenditure side, and promoting the perspective that when citizens pay taxes, not only is it a duty but it also creates rights, on the revenue-generation side. As such, the programme introduced a focus on equity and accountability – rather than simply efficiency – into revenue policy and administration.

Human rights mainstreaming

Donors' human rights policies refer increasingly to the need to mainstream human rights in other programming areas, or to adopt a HRBA. This is difficult when human rights are located within governance units, creating incentives to focus on civil and political rights interventions. What follows is an illustration of some sectors where this has been undertaken successfully.

Children's rights

A significant number of agencies have invested in children's rights. In addition to UNICEF and NGOs such as the International Save the Children Alliance, a range of bilateral agencies have developed approaches to children, based on the Convention on the Rights of the Child (CRC). For example, CIDA's efforts to integrate a human rights perspective are well illustrated through its work on a rights-based approach to child protection (Chapter 7) and Sida has made significant progress in mainstreaming a child rights perspective (Box 2.6).

The reasons for this considerable success seem to be, first, that children's rights are often perceived as less controversial, though some areas such as child participation or rights within the family can be particularly challenging. Second, the CRC has been nearly universally ratified for many years, which has created opportunities for engagement in a wide range of countries, even where a human rights language is usually not well accepted (for example, Vietnam). Third, the CRC provides a useful series of entry points for programming, as it covers social and economic rights as well as civil and political rights. Agencies

have successfully operationalised the four CRC principles: best interest of the child; non-discrimination; right to life, survival and development; and the right to participation. Finally, children's rights open the way to engage in a wide range of sectors by providing a clear target group. Examples here include health (child mortality MDG); education and gender equality (girl child and gender parity MDG); and protection, juvenile justice and child labour.

Box 2.6 Sida's mainstreaming of children's rights

In 2003, Sida reported on its efforts to mainstream a child rights' perspective (Sida, 2005a). These had been led by the equivalent of one full-time post in the Democratic Governance Division with responsibility for training, developing material and acting as adviser, along with a network of Sida programme officers who have received basic training in children's rights.

The report described how a child rights' perspective is becoming more visible in country strategies, such as in the regional South America strategy and Zambia country strategy. (The 2001 guidelines for country strategy development, which require paying attention to children's rights, were seen as a contributor to this process.) The report found that while Sida's policy and programmes integrate the principles of the best interest of the child, gender and non-discrimination, participation was more difficult to achieve.

Sida exerts international influence on children's rights by working with the UN, EU and other bilaterals. Sida's co-operation with the UN system pays particular attention to children's rights. Support to WHO is based on a human rights perspective that places women and children at the forefront, for example in the areas of maternal mortality and the right to sexual and reproductive health. Its support to the International Labour Organization includes a project on "Understanding Children's Work and its Impact". UNICEF, as Sida's largest channel, is responsible for 40 programmes in partner countries. While Swedish NGOs also receive Sida funding and work with local organisations (in particular, Save the Children Sweden), the review showed the difficulty of quantifying resources allocated to mainstreaming children's rights beyond support to UNICEF and Save the Children.

Sida's policy documents have increasingly emphasised children's rights. In 1999, a position paper *The Rights of the Child in Swedish Development Cooperation* (Sida, 2000a) was issued to provide guidance. The 2002 *Perspectives on Poverty* (Sida, 2002a) draws attention to children and adolescents in vulnerable positions.

Women's rights and gender equality

There is a great deal of overlap between initiatives to promote gender equality and the integration of human rights. Most donor agencies have adopted gender equality policies that call for both gender mainstreaming and interventions directly targeted at women. The approaches share a great deal at a normative and conceptual level: non-discrimination, including gender equality, is a fundamental human rights principle; the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) provides a clear framework and monitoring mechanism aimed at eliminating gender-based discrimination; and the 1994 Beijing Declaration is the foundation for a wide range of national initiatives. The *DAC Guidelines for Gender Equality* (OECD, 1999) explicitly refer to these frameworks.

Even at a programming level, interventions are often very similar and, as a number of illustrations in this volume demonstrate, women's rights are central to the systematic integration of human rights in development assistance (Box 2.7). For example, while the United Nations Development Fund for Women (UNIFEM) formally adopted the HRBA in 2004, this did not initiate a dramatic alteration of their programming, as the organisation's mandate had always been to advance gender equality and women's empowerment. Gender equality activities are also a way of working on human rights in the absence of human rights policies. The World Bank, for example, periodically undertakes gender assessments to inform policy dialogue and country assistance strategies. Gender is also one of the criteria used in the World Bank's Country Policy and Institutional Analysis, which includes ratification of CEDAW as a factor for consideration. USAID has undertaken a significant amount of work on women in development, including on anti-trafficking, women's legal rights, trade liberalisation and education. The approach focuses on overcoming obstacles to opportunities rather than explicit human rights programming.

In some agencies, there are opportunities for greater collaboration between human rights and gender equality work. For example, within Sida, gender experts were not a core part of the democracy and human rights team, while UNICEF only recently began integrating its gender and human rights advisory capacity more closely into its Global Policy Section. A number of recent studies highlight the difficulties in putting gender mainstreaming into practice (Sida, 2002a; Braithwaite *et al.* 2003; Watkins, 2004). These lessons are also applicable in the field of human rights, and underline the need for a substantial timeframe before

seeing results from mainstreaming policies aimed at tackling power inequalities.

Box 2.7 Linking human rights and gender

The 2002 review of the implementation of UNICEF’s HRBA (Moser and Moser, 2003) found that a number of country offices were trying to mainstream gender, but that there were few examples of this being done systematically. The majority of interventions responded to the needs of women, such as in the area of safe motherhood, required by women as mothers rather than as rights-holders. The mantra “children and women” was seen as unhelpful, as it did not necessarily entail programming for women’s rights.

DFID programming in Bangladesh has evolved from the thematic objective “improvements in the position of women in society”. More recently, it adopted “girls and women first” as the organising principle of the country strategy. As such, gender equality is now a strong current in all the country programme’s priority areas. DFID is fostering inclusion, helping women demand their rights more effectively, and calling upon government to be more responsive and accountable.

The European Commission frames gender inequality within the context of the denial of human rights. Its two-fold approach includes both gender mainstreaming and specific measures for women. In 2003 an assessment examined how successfully gender had been integrated into its development co-operation (Braithwaite *et al.*, 2003). It has a clear commitment to the rights of women and the girl child, Beijing principles and specific targets, such as political participation and traditional practices. However, although the European Commission has created synergies between gender and other cross-cutting issues, especially human rights and democracy, specific objectives that link gender equality and human rights and development have yet to be developed. The report identifies other challenges, such as a low level of awareness of the gender policy amongst staff and partners; insufficient resources, capacity and institutional culture to support mainstreaming; and the absence of clear guidelines on operationalising a coherent approach to gender mainstreaming.

Rights of minorities and indigenous peoples

When examining programming that links human rights standards to vulnerable or excluded groups, it is important not to overlook minorities and indigenous peoples. A recent review concluded that there has been more progress for indigenous peoples’ rights than for other ethnic, religious and linguistic minorities (Box 2.8 and Chapter 7). The

politically sensitive nature of minorities' rights in some regions contrasts with the more successful advocacy of indigenous peoples in many parts of the world.

Box 2.8 Rights of minorities and indigenous peoples

When Minority Rights Group International reviewed donor agency support to minorities (MRG, 2004), it concluded that some important progress had been made by some agencies towards considering indigenous peoples in policy and programming. However, there had been much less work on other ethnic, religious and linguistic minorities, and it called upon donors to step up their capacity building and programming efforts. The report pointed to some solid examples: the Inter-American Development Bank's Action Plan for Combating Social Exclusion Due to Race or Ethnic Background (2002), Sida's good coverage of minorities in its Perspectives on Poverty (2002a), SDC's training on the inclusion of minorities in development co-operation through a HRBA and backstopping mandate on minority rights, and the UNDP's intention to elaborate and adopt a policy note on minorities.

In 2005, the World Bank issued an updated policy on indigenous peoples (World Bank, 2005d) and is planning workshops and guidance to assist staff with implementation. The policy requires the design of Bank-financed projects to avoid adverse impacts and provide culturally appropriate benefits. Design requires screening, social assessment by the borrower, consultation with affected communities, preparation of a plan or planning framework, and disclosure. It aims to ensure that financing is only provided where free, prior and informed consultation results in broad community support, including broad support by the affected indigenous peoples for physical relocation in incidences where this is unavoidable. The Bank has also recently established a Global Fund for Indigenous Peoples which provides direct grants as well as support to the UN Permanent Forum on Indigenous Issues.

Health

A significant number of health or HIV/AIDS policies make reference to human rights (*e.g.* discrimination of persons living with HIV/AIDS), although they do not always provide operational guidance to address those issues (*e.g.* how to reconcile public health and human rights objectives in practice). Some agencies are developing innovative programmes and tools that illustrate how a HRBA to health can be implemented. For example, successful approaches to reproductive health and maternal mortality require that interventions examine the barriers faced by women to accessing services, in particular those related to

gender discrimination, as well as sensitivity to cultural and religious factors (Box 2.9).

Box 2.9 Gender and health outcomes

The maternal mortality MDG is off-track. By moving to a HRBA, UNICEF in Peru was better able to understand the gender, economic and geographic barriers to poor indigenous women using health-care centres. Starting from the point of view of the women, UNICEF learned how to work with a range of government and non-government contacts to provide culturally appropriate health services and educate communities about safe-motherhood practices.

Similarly, DFID has developed a “how to” note to help staff programme in a different way to address maternal mortality. DFID believes that approaches based on public health and health systems can be complemented by adequate laws and policies that take women’s rights into account, as well as efforts that address inequalities in accessing services and improve the quality of care so that services are tailored to women’s needs. DFID hopes to increase women’s knowledge of their rights to health care, for example through social mobilisation or community-managed support systems (Chapter 8).

Although the World Health Organization does not have an official human rights policy, a human rights team has a mainstreaming responsibility. The team is launching tools and providing examples of good practice. It has, for example, produced a guide to health, human rights and Poverty Reduction Strategy Papers; and is working with the UN Special Rapporteur on the Right to Health. An explicit policy endorsement and commitment of more resources would no doubt speed human rights progress at WHO.

By contrast, the United Nations Population Fund (UNFPA) recently adopted a policy note on HRBA (complemented by an information note). With a mandate for reproductive rights and health, UNFPA is working within a particularly controversial area. While cultural claims clearly cannot be used to justify the violation of human rights, UNFPA is committed to finding culturally sensitive ways to promote human rights. Innovative work is underway within its country programmes in order to build partnerships with communities and faith-based organisations (Chapter 8).

Education

Donor policies often refer to the right to education, and there is an increasing range of experiences in adopting a HRBA to education. In addition to putting into practice human rights principles such as participation, non-discrimination and accountability, the HRBA can

encompass not only the right *to* education, but also on rights *in* and *through* education. Such a HRBA would direct attention to the overall educational framework (curricula, governance structure, distribution of resources in the education system), as well as to the social outcomes of education (Box 2.10).

Box 2.10 Right to education initiatives

As Sida's Education Division is mainstreaming human rights, it has been reorganised into two working groups, one devoted to a democracy and human rights perspective. In addition to a first paper on Education for All: A Human Right and Basic Need (Sida, 2001b), it later issued a position paper on Education, Democracy and Human Rights (Sida, 2005b), demonstrating the importance of rights to, in and through education. Surveys showed that, while country legislation often corresponded with the Convention on the Rights of the Child, indirect costs (such as uniforms) constituted a barrier. The rights to participate in education and to health care in schools were not often met, and there was discrimination against those with HIV/AIDS and against refugees. A human rights analysis has been applied to many country dialogues. For example, in Ethiopia (in support of the UN Special Rapporteur on the Right to Education), in Mozambique (on the issue of the legal right to free education) and in Cambodia (to improve rural schools). As with other bilaterals, a great deal of Sida support on the right to education is channelled through the United Nations Children's Fund (UNICEF).

In Pakistan, UNICEF and SDC have collaborated in a project to enhance skills for girls. The project has promoted leadership and negotiation skills, and has succeeded in helping girls to obtain their rights without inducing a negative reaction from their family and community. In Peru, UNICEF undertook a rights-based analysis to identify where children's rights were most at risk: the Andean and Amazon regions. The Opening Doors to Education for Rural Girls programme points to the need to identify and overcome cultural, economic, health-related and in-school factors that have resulted in girls' exclusion from primary education. In Burkina Faso, a range of strategies improved access and quality of education (*e.g.* communication for behaviour change, multi-sector approach, expanded partnerships, capacity building). The project also put forth complementary strategies, such as food aid and micro credit for families sending girls to school, and improvements in safety and privacy for girls. In Chile, a rights analysis showed that poor urban and rural adolescents were deprived of their right to education through low completion rates. By mobilising duty-bearers (parents, teachers, faith-based groups), UNICEF helped draw up a new law giving the state responsibility for providing 12 years of free education for all.

Livelihoods

Integrating human rights in livelihood programmes has been more challenging for donors, possibly because the relevance of human rights standards requires more analysis. Some normative developments are very recent, for example in connection to the right to water, on which a General Comment of the UN Committee on Economic, Social and Cultural Rights was issued in 2002. In the area of the right to food, the Food and Agriculture Organisation of the United Nations adopted voluntary guidelines to implement the right to food in 2004, after 20 months of negotiations (FAO, 2005).

There are nevertheless a number of positive examples. UNIFEM has adopted a HRBA to women’s land rights in Central Asia, based on bridging analysis that links specific human rights commitments with policy-relevant recommendations. International NGOs have documented their experiences, which typically rely on the introduction of human rights principles (such as participation) into programming (Box 2.11). DFID has undertaken considerable research comparing HRBAs and sustainable livelihoods. DFID concluded that HRBAs draw attention to power relations and policy processes, encourage participatory planning and help establish local accountability mechanisms. However, inclusion is more difficult to achieve.

Box 2.11 Food and land rights interventions

In Kyrgyzstan, UNIFEM supports a greater focus on women’s rights as part of the land reform process. Achievements have included submitting draft amendments to the existing Land Code and related policies to the relevant government agencies and Parliament, strengthening the capacity of local government officials and staff to better protect women’s rights to land, and increasing the understanding of the general public (Chapter 7).

Humanitarian assistance in Sierra Leone was distributed in collaboration with Village Development Committees, which often resulted in misappropriation of inputs. With DFID support, CARE has led dialogue on the need for community mechanisms to ensure the accountability of committee members and greater inclusion in the distribution of food aid.

Infrastructure

Human rights can make a substantial contribution to infrastructure programmes, often through a HRBA. By demanding rigorous political and social analysis, a HRBA can help ensure that interventions do not inadvertently reinforce existing conflicts and power imbalances, as found in a WaterAid project in Tanzania (Chapter 7).

Large infrastructure programmes, such as the construction of dams, can also be a direct cause of human rights violations, for example by resulting in forced displacements without compensation. A number of agencies are trying to introduce “do no harm” policies to prevent or mitigate negative impacts. For example, the World Bank’s policy on involuntary resettlement (World Bank, 2004b) recognises the economic, social and environmental risks and the need for safeguards to address and mitigate them (Box 2.12). The World Bank’s Inspection Panel – set up to ensure that the Bank complies with its own policies – has had the indirect effect of preventing human rights violations.

Box 2.12 World Bank involuntary resettlement policy

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

Human rights dialogue and conditionality

Human rights projects and mainstreaming efforts offer a positive way of connecting human rights and development. Yet, as noted by Uvin (2004),

When people first consider the relation between development and human rights, [they] most spontaneously begin by thinking about conditionality. They argue that donors should threaten to cut off development assistance – and execute that threat – to recipients that consistently violate human rights.

However, the 1997 “Final Report of the Ad Hoc Working Group on Participatory Development and Good Governance” suggests that conditionality be used as a last resort:

Development co-operation stresses positive measures for the promotion of participatory development and good governance. The withholding of assistance should be reserved for cases where persistent violations of men, women and children’s basic rights are not being addressed by the government and no adequate basis of shared values and interests exists to permit a real partnership. (OECD, 1997a)

Most bilateral agencies have explicit political conditionality policies, that they have applied more or less consistently (Piron and Court, 2004; Piron and De Renzio, 2005). Since the early 1990s, the European Union has introduced human rights clauses in its agreements, and considers human rights, democracy and the rule of law as “essential elements” of development co-operation. If they are not respected, aid can be suspended (Box 2.13). A wide range of dialogue approaches have been used to respond to systematic violations or weak commitment to human rights: at a technical (project) level, in the context of agreeing overarching country strategies, or as part of diplomatic negotiations. Sometimes donors engage in both bilateral and multilateral dialogues on issues of human rights with the same countries simultaneously (*e.g.* bilateral dialogues with China and Iran as well as through the EU). The suspension of aid has usually been the exception and a measure of last resort. Anecdotal evidence suggests this is usually linked to violations of democratic rights (*e.g.* coups, fraudulent elections) rather than economic or social rights.

The application and impact of political dialogue and conditionality have, however, not been well researched recently (older studies include Burnell, 1994; Stokke, 1995; Crawford, 1997). Weaknesses in traditional approaches have been identified: they include ineffectiveness, lack of consistency in application and ethical dilemmas. In light of new ways of delivering and managing aid, some donors are revisiting common assumptions about addressing human rights through conditionality. There is much to be learned from donor experiences, yet documenting

and sharing them in public forums is considered politically sensitive. More encouragingly, Sida is planning an evaluation of its dialogue experiences, and DFID has reviewed the application of political conditionality to general budget support in Africa. Studies about dialogue and sanctions point to a number of lessons relevant for what is being called a “post-conditionality” approach in the PRSP context of “process conditionality” and selectivity (Harrison, 2001; Santiso, 2003; Uvin, 2004; Piron and de Renzio, 2005).

Box 2.13 Examples of human rights conditionality

The EU has a range of policies and experiences. For example, the Cotonou agreement with Africa, Caribbean and Pacific countries makes explicit reference to human rights and creates a mechanism for structured dialogue and eventual aid suspension if issues are not resolved. The EU undertakes dialogues focusing exclusively on human rights (*e.g.* with China since 1996 and Iran since 2002), as well as dialogues within the framework of joint commission meetings as part of Trade and Co-operation Agreements (*e.g.* Bangladesh, Laos and Vietnam).

Finland’s position on conditionality is consistent with that of most other bilaterals. It is committed to long-term co-operation but serious human rights problems may lead to a reduction or termination of aid. It pays attention to a country’s commitment to improving human rights, democracy, equality and corruption in its overall assessment of its commitment to development. In 2001, Kenya, Zambia and Nicaragua failed to meet conditions relating to human rights, democracy and good governance; since then, the situations have improved and co-operation is increasing. In 2004, Finland considered that instability and the poor human rights situation in Nepal meant there were no possibilities for increasing co-operation.

Findings and issues for further consideration

Donors have been integrating human rights through direct projects, in their country programmes and at a global level, for example through the work of international organisations. Most traditional interventions have been delivered through civil and political rights projects, often supported by civil-society funds and closely associated with democracy and the rule of law. Some governance programming areas, such as access to justice, have started to change as a result of the introduction of HRBAs, yet it is difficult to assess wider trends, in particular in

governance areas where political dimensions have only more recently been taken into account. The absence of an explicit application of a human rights perspective to the wider governance agenda is possibly one of the clearest shortcomings in donor experiences. This could be examined, for instance, with regard to the relationship between human rights and corruption.

While at a policy level governments are committed to the indivisibility of all human rights, within development co-operation human rights work has tended to be narrowly construed around civil and political rights (OECD, 2001). This narrow focus in part explains why there is limited evidence and advice to date on how governance interventions can strengthen the realisation of all rights, including economic and social rights.

Nonetheless, there have been significant efforts at human rights mainstreaming across a number of non-governance sectors. Possibly because it is perceived as politically less sensitive and because of the success of UNICEF in implementing its HRBA, child rights have been incorporated into a wide range of policies and programmes. There has been a growing mainstreaming of human rights into health, education or programming on gender and women in development. By comparison, donors seem to have less frequently linked human rights to other areas, such as minorities, infrastructure or livelihoods.

There has been little research on the use of political conditionality, despite its use by bilateral agencies and the EU. As new aid approaches emerge, it will be important to have more open discussions about this issue and to find effective ways of handling political conditionality in the context of medium to long term aid relationships.

Finally, there is scope for aid agencies to invest more in knowledge management across the board. Specific issues for research and analysis which could be undertaken jointly include:

- Governance sub-areas where there has been a demonstrable policy and programming shift (*e.g.* rule of law/access to justice or decentralisation).
- Achievements of non-governance interventions which have an explicit objective of human rights mainstreaming or are based on a HRBA, to allow comparison between a small set of sectors (*e.g.* health and education).

- Human rights dialogue and the impact of conditionality by bilateral donors and the EC, including the collaboration between development co-operation agencies and foreign ministries.

Chapter 3

Preliminary Lessons

***Abstract.** It is only relatively recently that development agencies have started to work on human rights more strategically. Since then, a number of studies have put together key messages about the contributions of human rights integration in development co-operation. This chapter draws together lessons, widely found in the literature, that form the core of the current evidence around the “added value” of human rights for development. These cover, inter alia, the intrinsic value of human rights as an explicit normative and analytical framework as well as their instrumental value for governance issues (e.g. the relationship between citizens and the state). The chapter also looks at the benefits of human rights for poverty reduction (e.g. its focus on excluded groups) and aid effectiveness issues. A key finding is that a human rights perspective that is fundamentally about challenging power relations can lead to explicit recognition of the political dimensions of aid.*

Intrinsic value

A coherent normative and analytical framework

Human rights offer a coherent normative framework which can guide development assistance. This framework puts the human person at the centre of the analysis, linked to state obligations and citizen entitlements. It is a universal framework into which states enter freely, with a jurisprudence to support decision making. Its grounding in a consensual global legal regime creates a normative legitimacy and consistency which is not always found in development interventions (for example, where donors provide more aid to certain countries or sectors based on what they perceive as their strategic interest).

Development agencies are recognising the analytical value of human rights: changes to project cycle management and innovative tools have enabled agencies to ask new questions and analyse situations differently. The bridging analysis undertaken by UNIFEM, for example, helps define the meaning of relevant human rights standards for particular contexts; as such, it builds development partners' understanding of how human rights guidance can enhance existing work (Box 3.1).

Box 3.1 Women's rights as an entry point to analyse land reform

UNIFEM's bridging analysis in Central Asia has enabled project staff to use the international framework to identify priority areas in the land reform process. For example, analysis has pointed to the need to examine women's right to land; women's rights in relation to family; women's access to credit; and the impact of stereotypes, discriminatory customs and religious laws on women's access to property.

Adaptability to different political and cultural environments

Aid agencies and their partners are sometimes concerned that programming in this area is simply too difficult, for example because of conflicts between human rights and local religion or culture, or certain political contexts. Yet some agencies have been able to use human rights as a tool to influence harmful and discriminatory practices – which might otherwise remain unchallenged. For example, in the area of health and reproductive rights, UNFPA has been able to identify culturally sensitive ways of promoting human rights, drawing on Islamic sources in Muslim

countries and distinguishing between culture at large and harmful practices that violate women’s rights (Chapter 8). Other agencies have adopted approaches tailored to individual country situations. For example, UNICEF focuses on policy, legal and institutional reforms in Latin America, community-level work in parts of Africa, and a progressive approach to human rights engagement in Vietnam that underlines the importance of the time factor and non-confrontational strategies (Box 3.2 and Chapters 6 and 7).

Box 3.2 UNICEF’s work in Vietnam

This country programme demonstrates the results of long-term engagement using a non-confrontational language and high-level political dialogue in centralised socialist political systems. When UNICEF first introduced child rights principles in its analysis and planning, explicit rights language would have been too sensitive. By broadening the range of its state and party counterparts, UNICEF was able to raise awareness of children’s rights in a number of areas. As a result, UNICEF has made progress in legal reform, juvenile justice and child protection.

Operational human rights principles

Many bilateral agencies, such as Sida and DFID, have been successful in programming around operational human rights principles. With slight variations, these sets of operational human rights principles are a combination of the principles found in the UN Interagency Common Understanding of a HRBA (Annex). At the sector level, other principles derived from the comments of UN treaty-monitoring bodies about economic and social rights (*e.g.* accessibility, adaptability, acceptability, affordability of services) also offer promising concepts around which development programming can be effectively organised.

For agencies that have not adopted explicit human rights policies, operational principles also offer a strategy for working on human rights in an implicit manner. This is the case with the World Bank’s Social Development Strategy (Box 3.3).

Box 3.3 World Bank Social Development Strategy

In 2005, the World Bank adopted a new social development policy (World Bank, 2005a). While it is not grounded in the international human rights framework, it is based on commitments found in the UN 1995 Copenhagen Social Development Summit and the 2000 Millennium Declaration. It describes similarities to related frameworks, such as Sen’s work on capabilities (1999) or Japan’s endorsement of “human security” as an overarching framework.

The strategy presents three operational principles (closely related to other agencies’ human rights principles), built on inclusion, non-discrimination and accountability: inclusive institutions to promote equal access to opportunities, enabling everyone to contribute to social and economic progress and share in its rewards; cohesive societies to enable women and men to work together to address common needs, overcome constraints and consider diverse interests; and transparent, accountable institutions that respond to the public interest in an effective, efficient and fair way.

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

It is, however, important to distinguish operational principles which might be tangentially related to human rights from interventions specifically grounded in the human rights framework. There is a risk of “rhetorical repackaging” when every single intervention aimed at enhancing accountability, by using a participatory approach, or channeling aid through civil society organisations, is described as “rights-based”, or arguing that a donor is contributing to social and economic rights simply because of investments in schools or job creation. Such interventions need to be related to specific state obligations in order to be categorised as contributing to the realisation of human rights.

The UN Interagency Common Understanding of a HRBA offers a useful framework for distinguishing between elements which are *unique* and clearly linked to the human rights framework, and others which are *essential* but shared with other perspectives and more commonly found

in development. Unique elements include using recommendations of international human rights bodies and mechanisms, assessing the capacity of rights-holders to claim their rights and of duty-bearers to fulfill their obligations, and developing strategies to build these capacities. Essential elements include, for example, recognising people as key actors in their own development (rather than as passive recipients of commodities and services), and valuing participation, empowerment and bottom-up processes, generally considered good programming practices.

Governance

Focusing on the links between the state and its citizens

Donor interventions tend to work either on the supply side (for example, reforming state institutions to make them more effective), or on the demand side (for example, civil-society advocacy campaigns that promote responsive governance). HRBAs help to break this artificial distinction by linking demand and supply through the conceptual lens of rights-holders, duty-bearers and citizenship (Box 3.4).

Box 3.4 Combining citizen awareness with state ability to deliver

Claiming citizenship rights requires that citizens be registered in the first place, so that they can legitimately demand their entitlements. In Bolivia, DFID and other donors are funding a project designed to provide identification documents to undocumented Bolivians (in particular the poor, women and indigenous people) and raise awareness about citizen rights amongst civil society, registration officials and members of the electoral court. The project has also worked with the supply side by developing the capacity of the court and registration service to handle the referendum and municipal elections during 2004-05.

In Peru, DFID has also supported mechanisms of citizen participation and the formal institutions of representative democracy. It worked with a coalition of state and civil society organisations to facilitate electoral education and oversight during presidential, congressional, regional and municipal elections. The project helped strengthen citizenship by involving the poor in the electoral process. At the same time, DFID helped transform the institutional/legal framework in which the political parties operated, by bringing together state and civil-society actors to seek consensus on a new Law of Political Parties and a reform of the electoral code. It also worked directly with parties (Chapter 6).

Accountability, redress and legitimacy

Strengthening state legitimacy is fundamental to the governance agenda: respect for human rights standards in itself offers a source of legitimacy. Institutional channels for domestic accountability are becoming an important development concern, not only in the context of improved aid effectiveness (*e.g.* in relation to general budget support and financial management), but also as a spur to pro-poor domestic reform (*e.g.* encouragement of parliamentary involvement in poverty reduction strategies). Human rights provide an accountability framework at the international, regional and national (constitutional) levels, which emphasises the need to document and monitor practices and progress regularly, and provides recommendations and opportunities for compensation or redress. This channel of accountability can be used to hold not just states but also aid agencies accountable for their performance (Chapter 4).

Various initiatives foster accountability processes and institutions, for example around the rule of law (Chapter 7) but also around democracy and political participation (Chapter 6).

Meaningful participation

HRBAs are often associated with the adoption of participatory techniques. DFID has, for example, been investing in “Participatory Rights Assessment Methodologies”, which have been piloted in Peru and Malawi. UNICEF has adopted a participatory community development strategy in parts of Africa. In addition to approaches that aim to contribute to the empowerment of poor and vulnerable populations, the integration of human rights calls for free, informed and meaningful participation which can be institutionalised and can affect public policy choices (Box 3.5). More traditional human rights projects in support of civic education or election processes have also contributed to this process.

Box 3.5 CIDA’s work on child participation

Child rights programming by donors and NGOs such as Save the Children has emphasised child participation. For example, CIDA has been funding child participation pilot projects as part of the implementation of its 2001 Action Plan on Child Protection (CIDA, 2001a). CIDA has also supported the participation of children in research, international conferences and policy dialogue.

In some cases, this has led to outcomes that were not anticipated. In CIDA’s Egypt pilot, it was observed that child labour often benefited children and their families. (Save the Children has also come up with the same finding). Rather than calling for abolition, the project supports working children, to improve their learning and working conditions. They are taught to identify labour hazards and to design healthy responses. At the national level, the Egyptian government has asked the CIDA project for expertise on a methodology for a participatory, rights-oriented national strategy for children (Chapter 7).

Poverty reduction

Identifying the root causes of poverty

The lessons put forward under a “governance” heading also contribute to those related to poverty reduction, especially in the areas of participation, empowerment and the transformation of state-society relations. Many studies highlight the analytical value of human rights for identifying the structural and root causes of poverty. Instead of a needs-based framework, programming based on a human rights analysis looks at states’ ability to meet their obligations as well as at their capacity and political will constraints. It also examines citizens’ ability to claim their rights, and the cultural and social barriers that may exist. For example, DFID recognised that inequality and exclusion represented major barriers for poverty reduction in Latin America and required tackling in new ways (Chapter 7).

Exposing power relations and the inertia of social norms

Identifying root causes of poverty requires understanding structural factors that perpetuate it, such as the roles of elites, abuse of state power or gender discrimination. Donors are not always comfortable examining such issues explicitly, or may not have the social or political skills to do so; a human rights analysis can enable such an approach (Box 3.6).

A number of studies point to the limitations of any approach that aims to respond only through legal or institutional change: social norms and values (or informal power networks) are amongst some of the most difficult challenges faced in achieving human rights (and pro-poor development outcomes more generally), as illustrated by the difficulties in achieving gender equality objectives.

Box 3.6 Water rights in Tanzania

In the Kileto District, Tanzania, WaterAid launched a project to improve water access for residents. By integrating human rights principles – in particular participation, non-discrimination, equality and empowerment – into the programming process (and including these as explicit programme goals), WaterAid was able to identify and eliminate underlying obstacles to equitable access to water. The participatory approach and analysis revealed that because of power imbalances, lack of land rights and exclusion from national policy decisions, two main ethnic groups were prevented access to water. Project members worked with the communities to overcome the inter-group conflict.

Paying attention to the excluded and marginalised

Agencies have also found human rights programming more effective in directly tackling disparities. Human rights principles of universality, equality and non-discrimination require that aid programmes pay attention to individuals and groups who are harder to reach through normal channels. They must take into account the institutional, political, economic and social factors that lead to exclusion and discrimination. Not least, this calls for greater use of disaggregated data (Box 3.7).

Box 3.7 UNICEF's use of new data

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

Aid effectiveness

From direct service delivery to capacity development

Human rights highlight the importance of states' and citizens' respective capacity to deliver and claim their rights. All too often, aid agencies and international NGOs have attempted to fill in capacity gaps, and deliver services directly, or advocate for policy change in the place of domestic actors. The various case studies of HRBAs, in particular those commissioned by UNICEF, consistently find that such an approach helps donors and NGOs understand the need to move away from direct delivery and work at the level of the overall legal and policy framework, institutions and programmes. This approach is more sustainable, as it requires capacity to be developed beyond donor or NGO interventions (Chapter 6).

Holistic and integrated approaches

Linking the principles of interdependence and interrelatedness of all human rights with development programming, a number of studies found that a HRBA produces operational benefits. It encourages more integrated programming (as opposed to a “silo” approach) by examining the range of factors that constrain the realisation of particular rights. This includes, for example, linking the lack of security at school with girls' school attendance, rather than the availability or quality of education *per se*. This approach often calls for collaboration with other agencies within a sector, between different sectors, or across state and civil society actors (Box 3.8). In a UNICEF survey, 36% of country offices said that they had engaged in multi-sector programming as a result of applying a HRBA (Raphael, 2005).

Box 3.8 The “justice chain”

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

Building new partnerships

In a recent book, Uvin (2004) notes that “One of the major – and by now totally evident – consequences of a rights-based approach to development is that it encourages development actors to identify different partners.” This trend encourages donor agencies to work with wider sets of actors, often in a facilitative way to support domestic change processes in partner countries (Box 3.9).

Box 3.9 New partnerships

Sida’s mainstreaming project in Kenya works with a network of local partners (government, NGOs and UN), acting as resource persons for its sector programmes. The project also contributes to a national process around the Kenya National Human Rights Commission.

When UNICEF wanted to ensure accountability in Costa Rica, it joined forces with the Catholic Church, public universities, chambers of commerce and political leaders and came up with new social, economic and political proposals. In Jordan, when it found limited material available in Arabic on CRC and CEDAW for legal experts, UNICEF opened discussions with the country’s law school. There is now a mandatory course on human rights for all students, as well as courses on CRC and CEDAW.

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

Explicitly recognising the political dimensions of aid

A human rights-based approach to poverty reduction is inherently political, because it attempts to change power relations within society. Recognising that donors themselves can be political actors raises difficult issues regarding the legitimacy of donor action, the practice of power and lines of accountability. DFID realised these consequences in Peru, which also meant that there was the potential for conflict between DFID and the state (Box 3.9). While few aid agencies would be able to act in an explicitly political manner, a number of studies, including political economy analytic work such as Drivers of Change and Power

Analyses (Dahl-Østergaard *et al.*, 2005), recognise the political dimensions of poverty reduction, and the political role of donors pushing for pro-poor change.

Box 3.10 Political party reform in Peru

In order to start tackling exclusion and inequality, DFID Peru supported reform of the legal and institutional framework but also worked with political parties themselves to help them think more about poverty and how to tackle it – clearly a sensitive area for a donor. The Agora project brought together militants from a wide range of parties to examine how to strengthen party governance. It emphasised inclusiveness by facilitating the participation of all parties; for example, meetings were held outside Lima to encourage the involvement of local party activists.

Reinforcing “good programming practices”

Some of the contributions of human rights presented above can be described without using a “rights language”. This is the reason behind the UN Interagency Common Understanding’s distinction between unique and essential elements of a human-rights based approach (Annex), specifying what is found across good programming in general and the specific value of the human rights normative framework.

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

Findings and issues for further consideration

Development agencies integrate human rights in the international human rights framework to varying degrees. Some, such as Sida or the UN, are explicit about the foundation of this work in international human rights agreements and obligations, whereas others adopt a much more implicit use, usually at an operational level. Yet ultimately, the integration of human rights into development has to be related to the international framework that is the main source of legitimacy of the

approach. This framework continues to evolve, and it will be important for development agencies, partner countries and civil-society groups to continue to interact with human rights actors such as UN bodies, human rights academics and lawyers or NGOs. At the same time, human rights organisations should become more familiar with development concepts and approaches to be able to participate effectively in the mainstream of development debates.

The 2005 World Summit reaffirmed member states’

... solemn commitment to fulfill their obligations to promote universal respect for and the observance and protection of all human rights and fundamental freedoms for all in accordance with the Charter, the Universal Declaration of Human Rights and other instruments relating to human rights and international law” (UN, 2005a)

and resolved to strengthen the UN human rights machinery, the OHCHR and the treaty-monitoring bodies, further mainstreaming within the UN and establishing a Human Rights Council. OECD members should continue to support initiatives aimed at strengthening the human rights system and mainstreaming human rights within the UN.

States should ensure that human rights standards and the general comments of the treaty-monitoring bodies are well known and used, and try to enhance the usefulness and relevance of the recommendations of these bodies (O’Neill, 2004; Alston, 2004). Development agencies should step up their capacity to interact with human rights bodies and organisations, and the capacity for “translation” between the development and human rights communities.

Chapter 4

Challenges and Opportunities

***Abstract.** Work on human rights has started to have an impact on development practice. Policies and activities can be found across a wide range of agencies, indicating that human rights are becoming a regular feature of development co-operation. Yet difficulties persist. This chapter pinpoints the main challenges and opportunities in the further integration of human rights in development co-operation. These are categorised into three broad areas, those that are: internal to aid agencies, shared with partner countries and related to key reference points in the international aid system. The analysis shows that aid agencies need to deepen their institutionalisation of human rights considerations, find better ways of engaging in difficult environments and addressing the links between state fragility and human rights, and strengthen the integration of human rights into thinking and practice around the various aspects of the aid effectiveness agenda.*

Institutionalisation

Institutionalisation is the main internal challenge facing aid agencies. Agencies that are committed to applying a human rights-based approach internally need to take a systematic look at their procedures and operations in order to identify required changes and to strengthen staff capacities and incentive structures. For agencies committed to working on human rights in a more selective fashion (such as at the level of projects or in their dialogue) it has been important to provide guidance to staff on why and how to undertake this work more effectively.

A synthesis of documented experiences, along with a large number of interviews conducted, suggests that the following elements are important for effective institutionalisation: external environment, senior leadership, staff capacity and incentives, new tools and guidance on changes to project cycle management, and adapting to working in a more decentralised context.

International and domestic political context

Chapter 1 reviewed some of the legal and political constraints to integrating human rights. Opportunities created in the post-Cold War international environment included the Vienna (human rights), Beijing (women), Copenhagen (social development) and Durban (racism) conferences. These were reflected in the Millennium Declaration and again reaffirmed in the 2005 World Summit Outcome Document (UN, 2005a). Such international statements, and the action plans derived from them, can create strong incentives for agencies to review the extent to which they have put their human rights policies into practice.

Domestic political contexts have also created opportunities for aid agencies. For example, existing studies point to the domestic commitment to human rights in Nordic countries. As is illustrated by Sweden's new policy, *Shared Responsibility: Sweden's Policy for Global Development* (Government of Sweden, 2003a), domestic commitments can then be extended into international action, including aid. In the UK, the 1997 elections brought into power politicians committed to both an ethical foreign policy in the Foreign and Commonwealth Office, and to paying greater attention to economic and social rights within aid provision (DFID, 1997).

Senior level commitment, accountability and communication

Resistance to policy change is common among agencies. However, reviews indicate that senior-level managers and other policy champions (in agencies such as UNICEF and Sida) have taken steps to ensure that new policies are effectively communicated and implemented in their organisations. Making staff accountable to senior management has been a useful approach (Box 4.1).

Box 4.1 Senior-level directives

In 1998, UNICEF issued an Executive Directive introducing its human-rights based approach to programming (UNICEF, 1998). It assigned responsibilities for dissemination and implementation to heads of offices, regional directors and division directors. The new approach was not made a separate thematic area; instead, every staff member and country office was given responsibility for implementation. Both the Vietnam case study and the evaluation of UNICEF's HRBA emphasise the important role played by senior staff in this transformation (Chapter 5).

NZAID has translated ministers' commitments to human rights mainstreaming into an implementation plan (NZAID, 2004). An implementation team, including senior managers, meets monthly to review progress, and will report to ministers after a few years. The implementation plan targets not only strategy, planning and programming, but also organisational capacity and cultural transformation within NZAID. It calls for data capture on human rights programming, staff recruitment and training, a process for responding to staff concerns about human rights abuses (within the agency or in partner countries), a review of contracting procedures and the agency's communication strategy (Chapter 8).

Staff capacities and incentives

Agencies generally had little staff expertise when they first adopted their human rights policies. To put the policies into action, most have created new focal point positions and some have recruited experts externally. Yet numbers remain small, with often only one or two persons responsible for human rights and related issues at headquarters (usually located within governance units). Some agencies have given responsibility to a professional cadre with country programming responsibility (*e.g.* DFID social development advisers). Various agencies have launched training programmes in the regions (targeted to audience

and level of expertise) in order to mainstream expertise across the agency (*e.g.* UNICEF, Sida and Dutch development co-operation). A number of agencies have promoted outside networking opportunities, and exchanges of information within the agency (*e.g.* DFID's social development retreats and Sida's democratic governance events).

Box 4.2 Capacity development initiatives

NZAID is a new agency; its Human Rights Policy Statement (NZAID, 2002) was the second document issued by senior management. As most staff are newly recruited, they have been inducted in the human rights policy. This contrasts with agencies where staff have been in post for longer, are already familiar with existing approaches and frameworks, and are not offered training.

DFID's significant policy and programming developments can be credited to its professional network of social development advisers (about 70 out of 2 500) who ensure that a social perspective (including human rights considerations) is applied to all DFID activities. Individual advisers have championed the approach in specific projects and programmes, as well as in the development of country strategies or new policy initiatives. This contrasts with most other bilateral agencies where either human rights have been seen primarily as a governance concern or where there are fewer professional advisers working on these issues.

There are many examples of agencies learning from one another: Sida found DFID's human rights "target strategy paper" (2000a) an inspirational document that helped push forward its own thinking. SDC has used developments within the UN system, such as the OHCHR Draft Guidelines on a Human Rights Approach to Poverty Reduction Strategies (OHCHR, 2003) or the UN Interagency Common Understanding of a HRBA (UN, 2003), in order to promote internal debate.

New tools and procedures

A detailed review of the impact of SDC's human rights and rule of law documents illustrates how new policies need to be accompanied by practical advice to facilitate implementation (Piron and Court, 2004). UNICEF and Sida report that staff are now familiar with the concept of a human-rights based approach, but want concrete tools and examples illustrating how value can be added. As a result, agencies have produced documents to help mainstreaming. Some are sector-specific (*e.g.* health, education) or thematic (*e.g.* children). Others assist in country analysis

and objective setting, such as Sida’s “Guide for Country Analysis from a Democratic Governance and Human Rights Perspective” (Sida, 2001a).

Several agencies have made changes to project cycle management procedures to help integrate human rights at all levels of design, implementation, monitoring and evaluation of regional/country strategies and programmes/projects. In some cases, these have been compulsory; within the UN system, reviews of UNICEF’s work, Common Country Assessments and the United Nations Development Assistance Framework show the impact of this mandatory approach on country strategies and activities (Box 4.3).

Box 4.3 UN country assessment and programming

The UN system has integrated a HRBA into the guidelines to prepare Common Country Assessments and UN Development Assistance Frameworks. A recent review for OHCHR showed that there was increasing evidence of commitment to this approach with a willingness to put it into practice (O’Neill, 2004). Most of these documents now explicitly state that human rights form the basis of their analysis and programmes. The documents contain a more thorough analysis of the root causes of poverty and take a more sophisticated approach to advocacy. They point out data inadequacies in identifying discrimination and inequities, and provide greater clarity in their capacity analyses of both duty-bearers and rights-holders. The review also concluded that more could be done to systematically use the findings of the UN human rights system and translate them into programming priorities (Chapter 8).

Agencies seem to have made the most changes at the level of strategy and programme appraisal and design. New approaches have included:

- Human rights situation analyses contribute to country strategies by identifying national human rights constraints and opportunities to strengthen capacities of both state and non-state actors (Chapter 5).
- Bridging analysis looks at a country’s existing international, regional and constitutional human rights obligations and identifies gaps in legislative frameworks, policies and programmes. The analysis then describes measures recommended by the human rights system to fill these gaps, thereby identifying programming priorities (*e.g.* UNIFEM in Tajikistan, Chapter 7).

- Participatory approaches used at all stages (e.g. DFID’s Participatory Rights Assessment Methodologies or the joint UNDP-OHCHR rights-based municipal assessment and planning project in Bosnia-Herzegovina).

One of the basic human rights principles applied to project cycle management is the “do no harm” policy. For example, Sida’s summary of its updated policy framework includes the minimum requirement that a programme should not negatively affect human rights. However, there seem to be few approaches to monitoring this, in particular at the level of the implementation of donor-funded activities. In the humanitarian field, the Sphere Project and the Humanitarian Accountability Partnership are initiatives launched in an effort to improve the quality of disaster relief and to enhance the accountability of the humanitarian system. The revised Standards of Conduct for the International Civil Service (International Civil Service Commission, 2002) identify human rights as one of the values that must guide international civil servants in all their actions. While many donors have human resources policies to improve staff diversity and gender equality, these do not deal with the direct accountability of staff to the public or the impact of donor activities on beneficiaries.

In general, there is a lack of instruments to hold donors to account for implementing their human rights policies. This was diagnosed, for example, by a HURIST lesson-learning workshop in March 2005 which recommended setting up mechanisms at the country level to keep pressure on the UNDP to implement its HRBA – an approach piloted in Kenya with indigenous people. By supporting the development of their capacities, donor agencies can bring partner country governments and civil society actors in a better position to hold them to account, thereby creating a momentum to improve collective performance.

Human rights monitoring and evaluation seems to be a weakness across most agencies and at all stages in the programming cycle. This applies to human rights projects, mainstreaming efforts and dialogue initiatives, as well as to country programme impacts and the overall institutionalisation of human rights policies within agencies. For example, at the level of projects and country programmes, the Norwegian Agency for Development Cooperation has developed a human rights impact assessment tool (Norad, 2001), but it does not appear to have been systematically used. Human rights indicators are being developed to assess overall country performance and influence aid allocations, but these remain controversial. Metagora – an international

project implemented under the auspices of the OECD-hosted consortium Paris 21 – aims at enhancing evidence-based assessment and monitoring in the areas of human rights, democracy and governance. Its main objective is to develop tools based on well-established statistical methods to obtain data and create indicators upon which policies can be formulated and evaluated.

Adapting to decentralised working

The increasing decentralisation of most aid agencies, that fosters closer interaction with national partners and country-based aid co-ordination, poses a challenge to the institutionalisation of human rights and other policies. These policies have tended to be developed at headquarters and need to be applied in specific country contexts. As illustrated in SDC and DFID reviews, decentralisation has enabled some country offices to experiment with a human-rights based approach, even when central policies and procedural changes lagged behind.

The reviews have identified a range of techniques to ensure improved linkages between policy and implementation. Some agencies ensure field representation in the development of human rights policies and guidance (*e.g.* SDC consultation process), decentralise expertise to country offices (*e.g.* Sida’s regional democracy and human rights advisers, DFID’s social development advisers) or include human rights in the terms of reference for a wider range of field positions (*e.g.* UNIFEM). Other techniques include providing headquarter advice to targeted country programmes (*e.g.* HURIST reviews of UNDP country programmes), or adding questions about progress on human rights programming in annual planning instructions and country office reports (*e.g.* UNICEF annual reviews).

Organisations are documenting their experience with country-level piloting of new approaches to feed into institutional learning (*e.g.* DFID’s Participatory Rights Assessment Methodology initiatives in Peru and Malawi), or even with the application of a HRBA across a full country programme (*e.g.* UNICEF case studies, Sida Kenya programme, and DFID programmes in Peru, Bolivia and Brazil.). In addition, they are establishing regionally based, multi-agency communities of practice to share lessons about human rights in a region/country relevant way (*e.g.* OHCHR Lessons Learned Project on HRBA in the Asia-Pacific region or UNDP’s lesson learning work on rights and justice in the same region).

Box 4.4 HURIST Human Rights Country Reviews

HURIST has facilitated 14 human rights-based UNDP country programme reviews (well beyond the original 5 pilots). The aim is not to rate individual country programmes, but to strengthen and share best practices, with the help of a checklist. Programming benefits have included, for example, encouraging country offices to pay greater attention to participation and vulnerable groups. This initiative has brought country offices into UNDP's mainstreaming process and gained institutional support from regional bureaux. In some cases, a HURIST review mission was the first event where human rights were firmly put on the agenda of a UNDP country office. The last reviews capitalised on the staff capacity-building opportunities the process created.

Development partnerships between donors and partner countries

Integrating human rights into development assistance is not simply a technical matter resolved by adequate training or better tools and procedures. In some contexts, aid agencies have found engagement with partner governments around human rights issues particularly difficult because these issues highlight the political dimensions of poverty reduction, or because of weak capacity. There are two overarching challenges facing donors at this level: understanding and addressing the links between fragile states and human rights, and reconciling human rights with the national ownership and leadership of strategies on which aid is increasingly based.

Box 4.5 Challenges for UNICEF staff

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

State fragility and capacity limitations

Donors realise that they need to find better ways of engaging in difficult environments or fragile states, defined by the OECD's Development Assistance Committee (DAC) as "... countries where there is a lack of political commitment and/or weak capacity to develop and implement pro-poor policies, suffering from violent conflict and/or weak governance" (OECD, 2005c). Acute human rights violations and the fear of being seen as complicit with human rights abusing governments are among the most important factors impeding a stronger role for donors in fragile states.

Yet the theoretical and practical links between the human rights and fragile states agendas are underdeveloped and tend to be implicit. For example, the DAC draft "Principles for Good International Engagement in Fragile States" make no reference to human rights, but this is likely to be corrected in the final version. Few agencies have developed policy statements or strategies in these areas; when they have, human rights are not given much prominence.

Weak capacity to realise human rights can result from a range of factors, such as limited resources to meet minimum standards or ignorance of human rights duties and claims. The positive approaches examined in Chapter 2, and the key role given to capacity development of rights-holders and duty-bearers in the UN Interagency Common Understanding of a HRBA (Annex), are the strategies most commonly adopted to overcome this.

In weak or fragile states, state capacity may be so limited that some human rights obligations may not be realistic: for example, holding states accountable for meeting even the most basic obligations, such as maintaining security or providing access to services. However, human rights may help to identify what is required for effective nation or state-building: a human rights perspective can highlight how to move progressively to a situation where states can meet their basic obligations, reconstructing the social contract between rulers and ruled. This echoes the current focus of the DAC's fragile states approach which prioritises state core functions such as basic security, justice, economic and service delivery functions, legitimacy and accountability, and an enabling environment (OECD, 2005b).

Partner-country ownership and political resistance to human rights

Aid agencies have often been reluctant to engage in human rights programming because they fear the human rights agenda may be rejected by official partners, for example on the grounds of political interference in domestic sovereignty or cultural relativism. The recent UN World Summit Outcome Document is useful here: it reaffirms the universality of human rights and commits member states “... to integrate the promotion and protection of human rights into national policies” (UN, 2005a).

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

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

Partner governments often claim that human rights are an externally imposed agenda. This would seem to conflict with the principle of national ownership, where partner countries exercise effective leadership over their development policies and strategies, and co-ordinate development actions. In response, agencies refer to nationally entrenched fundamental rights in constitutions and domestic legal standards, as well as the (freely entered into) international human rights obligations: aid

can help partner countries to meet these commitments, primarily through capacity development support.

Donors may support partner-country actors' participation in poverty reduction strategy processes, thereby allowing wider constituencies to engage and supporting domestic accountability. In Uganda, for example, DFID has funded participatory processes, including a focus on pastoralist communities. UNDP has supported the Uganda Human Rights Commission in policy debates, and a coalition of civil society organisations has advocated for a rights-based approach to the Poverty Eradication Action Plan revisions, leading to greater emphasis on equity considerations. More lessons about the integration of human rights in poverty reduction strategies may emerge from research on poverty and human rights by the Geneva-based International Council on Human Rights Policy. Lessons may also be drawn from current OHCHR efforts, such as the application of the "Draft Guidelines on a Human Rights Approach to Poverty Reduction Strategies" (OHCHR, 2003) and the piloting of the approach by HURIST in a limited set of countries.

Key international reference points: MDGs and the Paris Declaration

Aid agencies working on human rights issues face the challenge of integrating human rights into their joint aid policies, with a focus on MDGs, aid allocations and modalities, policy coherence and the various aspects of the aid effectiveness agenda as set out in the Paris Declaration (Box 4.6).

Box 4.6 The Paris Declaration on Aid Effectiveness

The Paris Declaration (OECD, 2005a) was endorsed at the DAC High Level Forum in March 2005. It builds on commitments made at Monterrey in 2002 (Finance for Development), Rome in 2003 (Harmonisation) and Marrakech in 2004 (Managing for Development Results). Countries and organisations adhering to the Declaration include 35 donor countries and agencies, 26 multilateral organisations, 56 countries that receive aid and 14 civil society organisations. The Paris Declaration is intended to further reform the ways of delivering and managing aid. More than a statement of general principles, it lays down a practical, action-oriented roadmap to improve the quality of aid and its impact on development. A large number of commitments are organised around 5 key principles: ownership, alignment, harmonisation, managing for results and mutual accountability. A list of 12 indicators of aid effectiveness allows tracking and encouraging progress.

Millennium Development Goals

Poverty reduction and the MDGs are now at the centre of most agencies' policies and strategies; progress towards the MDGs is being used to plan and monitor agency performance. The 2000 Millennium Declaration makes an explicit reference to human rights (UN, 2000), but the MDGs themselves are not identical to the existing human rights framework. For a number of agencies, the MDGs and human rights are fully compatible frameworks given that the MDGs are derived from the UN conferences of the 1990s, which included human rights and social development objectives. Some commentators consider this approach too narrow: the MDGs are seen to fall short of the human rights agenda; they identify a more limited set of obligations, in particular ignoring civil and political rights; and can be achieved without reaching the most vulnerable and excluded groups. Alston's (2004) examination of a human rights perspective on the MDGs provides a detailed review of the debates and recommendations.

Box 4.7 Linking MDGs and human rights indicators

As a cross-cutting concern for the achievement of all the MDGs, gender equality is not well reflected in the global targets and indicators. However, CEDAW and the Beijing Platform for Action set further-reaching obligations. In co-operation with the German Federal Ministry for Economic Cooperation and Development (BMZ) and GTZ, UNIFEM has developed a tool to show how the MDGs can be used as a vehicle for Beijing and CEDAW implementation at the national level. In *Pathway to Gender Equality* (UNIFEM, 2004), each goal is accompanied by an analysis of the gender issues it raises and an identification of CEDAW and Beijing commitments to inform national MDG reporting and implementation strategies.

The UN Special Rapporteur on the Right to Health is developing right-to-health indicators covering structural factors, processes and outcomes, and linking human rights norms to duty-bearers and the principle of non-discrimination. This will make it easier to measure progress in meeting the health MDGs and to promote the right to health, including dimensions ignored in the MDGs (such as mental health).

Agencies have responded to these challenges to-date by:

- Linking the MDGs to specific human rights indicators (Box 4.7).
- Highlighting the Millennium Declaration (as well as the MDGs) in their policy statements, so as to keep the full range of human

rights standards and principles to the fore. For example, SDC has highlighted its contribution to human rights in Switzerland's national report for the Millennium Summit.

- Illustrating how a human rights-based approach to meeting the MDGs can be adopted. For example, DFID has developed a tool to promote a HRBA to maternal mortality. Its social exclusion policy aims to ensure that efforts to meet the MDGs also reach excluded individuals and groups.

Alignment and harmonisation

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

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

There is room for further work on the part of donor agencies on how to integrate human rights better in these debates. There are a number of examples, showing that the capacity development prioritised under this aid agenda can be undertaken from a human rights-based approach (Box 4.8). In addition, greater collaboration and transparency can be applied to human rights work, whether in projects or dialogue.

Box 4.8 Public expenditure and rights programming

UNICEF and UNIFEM have supported a number of initiatives to develop capacity for budget preparation and monitoring from a rights perspective, for example through gender or children's budgets, bringing together ministries of finance and social movements.

DFID has been supporting the Uganda Debt Network in its monitoring of the Poverty Action Fund, through which a significant amount of donor resources is channeled to local levels. In Peru, DFID-supported taxation reform has been linked to citizens' rights and duties.

Aid allocations and aid modalities

Assessments of whether human rights are being met, and the kind of additional resources needed to allow partner governments to better respect, protect and fulfill human rights, are already contributing to aid allocation decisions. This is a sensitive area, as it is closely related to the use of political conditionality and the withholding or suspension of aid in certain circumstances. Some agencies are using public sets of human rights and governance indicators in order to identify and reward good performance (Box 4.9).

Box 4.9 The U.S. Millennium Challenge Account

The US Millennium Challenge Corporation aims not to use US political or foreign policy objectives in order to select beneficiary countries. Instead, it first identifies a set of countries based on their per capita income. It then uses 16 indicators in 3 categories (ruling justly, economic freedom and investing in people) to measure countries. It explicitly uses governance indicators and draws on the six dimensions of the World Bank Institute's database, which itself uses a range of human rights indicators. Countries then become eligible to submit proposals for Millennium Challenge Account funding. The Board can exercise discretion in the selection process, to consider data weaknesses, additional qualitative information or if a country performs very poorly on any indicator. However, care must be taken that use of discretion does not open up space for a re-politicisation of the selection process.

Chapter 2 illustrated how, traditionally, human rights were addressed through stand-alone projects, or are now being mainstreamed in sector programmes. A number of donor agencies are concerned that, in the

current shift to programme aid modalities (such as general budget support or sector-wide approaches), a focus on human rights is being lost. Some agencies are, for example, cutting down on non-programme aid interventions, such as support to civil society organisations or grassroots activities, as these are perceived as more difficult to design and manage. Yet, they are considered a central element of integrating human rights into development co-operation, by supporting the ability of rights-holders to become aware of, claim and enforce their rights.

Agencies are currently responding to this dilemma. For example, the German Development Bank KfW has commissioned a study and portfolio analysis of the relevance of HRBAs for financial co-operation. Some agencies have already developed tools to ground their choice of aid modalities, based on country analysis including human rights and governance (Box 4.10). Research suggests that a mix of aid instruments is desirable (Booth and Curran, 2005). Programme aid needs to be seen in the context of a range of options: appropriate policy dialogue, technical advice and capacity development support to enable governments to identify and implement their national priorities. Finally, donors and governments need to build more effective accountability mechanisms, which can help integrate human rights into aid initiatives.

Box 4.10 The Netherlands' Track Record Framework

The Track Record User Guide (Netherlands Ministry of Foreign Affairs, 2005) is an assessment framework used to determine the level of alignment feasible in a partner country, and whether the chosen aid modalities correspond to this level of alignment. It is a compulsory element in the annual plan, linked to the Netherlands multi-annual planning and reporting to Parliament. The track record contains the conclusions and ratings of the different policy areas and expresses the view of the country mission as a whole (development co-operation, economy and trade, policy and financial management). Human rights are covered under Category C2, “Basic conditions for good governance”, and the World Bank Institute governance indicators are used. Depending on the final score, an aid modality is chosen, ranging between full alignment (in the form of general budget support) and no alignment (project support).

Results-based management

The Paris Declaration includes a commitment to manage aid in a way that focuses on the desired results and uses information to improve

decision making. The literature on results-based management rarely touches upon the role of human rights in conceptualising and achieving results. This may be due to a perception that human rights give attention to processes, qualitative measures and normative standards rather than focusing on measurable outcomes. For example, agencies such as UNICEF have found that the lack of disaggregated data has constrained their ability to target and monitor progress in equality and non-discrimination.

A number of agencies have, however, worked to integrate human rights within their results-based management frameworks (Box 4.11). There have been attempts to use national and international reporting on human rights commitments as part of country performance assessment frameworks, as well as investments in disaggregated data or tracking qualitative impact, and a focus on structures and processes as well as outcomes.

Box 4.11 UNIFEM’s HRBA to results-based management

UNIFEM’s Multi-Year Funding Framework sets four rights-based goals: reduce feminised poverty and exclusion, end violence against women, reverse the spread of HIV/AIDS amongst women and girls, and achieve gender equality in democratic governance in times of peace and in recovery from war. UNIFEM has recently issued a guide for measuring results from a human rights perspective. It includes recommendations on how to measure progress in building the capacity of duty-bearers and rights-holders. It uses CEDAW as the source of indicators, and adopts a participatory approach to planning and reporting (Chapter 8).

Mutual accountability

Mutual accountability refers to the individual and joint accountability of donors and partner governments to their citizens and parliaments for their development policies, strategies and performance. The Paris Declaration requires that partner governments use participatory processes to develop and monitor national strategies and involve their parliaments, that donors provide transparent information on aid flows to promote public accountability, and that both parties jointly assess progress in meeting aid effectiveness commitments. These mutual accountability principles are fully compatible with the human rights

principles of accountability and transparency, which require access to information as well as participation in decision making.

Human rights norms and standards can explicitly be part of this mutual accountability framework. This requires not only that partner governments demonstrate progress in implementing their human rights commitments but also that donors be held accountable for their contribution to the realisation of human rights in partner countries. There are several examples of governments and agencies specifying human rights as a shared value underpinning their aid partnerships (*e.g.* Finland, Netherlands, Sida, DFID, UN system). However, there are also disagreements regarding the extent to which the international human rights framework requires donors to be legally accountable for their human rights impacts.

Box 4.12 Human rights and mutual accountability

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

Policy coherence

The integration of human rights within development assistance is consistent with the need for donors to improve the coherence of their aid with their other policies, an issue already firmly on the DAC agenda. Indeed, human rights have traditionally been part of foreign policy, and in a number of countries, ministries of foreign affairs have the overall lead on human rights. Initiatives to use aid to pursue human rights objectives, and to ensure that aid does not contribute to human rights

violations overseas, may promote policy coherence. The coherence challenge has been easier to overcome for agencies already working closely with (or integrated into) the ministries of foreign affairs (Box 4.13). Other agencies have been developing closer relationships and have started to work more strategically with ministries of defence, trade or interior. The Austrian Development Agency, for example, has recently organised a training workshop on the protection of children’s rights in emergency situations with the Austrian Ministries of Defence and Foreign Affairs.

Box 4.13 Swedish and Dutch models for aid policy coherence

In 2003, Sweden adopted a global policy to contribute to equitable and sustainable development, requiring that the “perspectives of the poor” and a “rights perspective” be systematically adopted (Government of Sweden, 2003a). Sida is currently working through the implications of this policy, which requires significantly greater coherence internally within Sida, and also across the Ministry of Foreign Affairs and other ministries.

Coherence is facilitated in the Netherlands by the fact that the aid programme is developed and implemented through the Ministry of Foreign Affairs and its embassies. This has made it easier to integrate human rights with development co-operation and other responsibilities of the embassies. A handout has been produced to guide dialogue. The Ministry can also require human rights to be a compulsory issue to be raised in dialogue when the embassy does not see it as a priority.

Findings and issues for further consideration

Donors face three main sets of challenges in further integrating human rights: institutionalising the approach internally within agencies; working on human rights issues positively with partner governments, in particular in fragile states; and making sure that a human rights perspective influences the manner in which key issues on aid effectiveness and new aid modalities are framed and understood.

With regard to the institutionalisation of human rights policies, donors could, either formally or more informally, regularly share tools and guidance documents, and undertake joint training, rather than investing in them separately:

- A knowledge management (and possibly advisory) centre for interested agencies would provide a helpful mechanism to enable agencies to learn more systematically from one another. It could create and maintain databases of documents, tools and experiences, and act as a hub for further exchanges and learning opportunities (similar to the Utstein Anti-Corruption Centre or DFID’s Governance Resource Centre).
- Identification and documentation of examples of “do no harm” policies, possibly including past negative impacts and how they can be overcome, would demonstrate the value of this approach.
- In order to enhance donor accountability, codes of conduct for staff and project implementers could be developed. Complaint and redress mechanisms would allow beneficiaries to hold agencies to account.
- The area of human rights-related monitoring and evaluation requires more in-depth review. It would be helpful to see further work providing more evidence of the impact of human rights on the achievement of development objectives, such as poverty reduction. This process might include identification of human rights indicators suitable to help document experiences, to measure the impact of human rights projects and mainstreaming initiatives, and to inform aid allocation and aid modality decisions. Such work could build on existing initiatives (*e.g.* work of the World Bank Institute, OHCHR and the Metagora project).

In order to further promote human rights as part of nationally owned strategies, wider consultative processes are needed. Parliamentarians (*e.g.* parliamentary human rights committees), national human rights institutions, national civil-society organisations and international NGOs should be included to build wide ownership and draw on considerable country-based experiences.

With regard to the ways of delivering and managing aid, donors could document existing approaches to using human rights to inform decisions on aid allocations and modalities. This should not be reduced to the use of selectivity and conditionality and should go beyond project-based aid. There is much potential cross-fertilisation with the fragile states agenda here.

Responding to Paragraph 42 of the Paris Declaration, donors could harmonise their approaches to human rights. DAC members could also

think about examining the implementation of human rights policies in Peer Reviews so as to encourage the application of existing commitments and share good experiences.

The application and impact of conditionality have not been well researched; new approaches to aid effectiveness and aid modalities create opportunities to revisit this area. Agreement on a set of principles for the design and application of conditionality, along with improved understanding of partner countries' political trajectories and how internal forces may respond to external pressures, would enhance donor rationality when dealing with governance crises. Clear aims and objectives will make it easier to be consistent with predictability and partnership commitments. Conditions found in existing partner governments' commitments should be used as far as possible. This refers to constitutions, poverty reduction strategies and other national frameworks, as well as the relevant international and regional human rights instruments. Maintenance of minimum bottom lines, based on public commitments set in overall aid agreements, is a pre-requisite for principled actions by donors if all else fails. Experience also suggests that, for consistency of message and likelihood of impact, co-ordinated donor action and the use of multilateral channels are essential.

It is increasingly recognised that donors can make better efforts to explore ways in which human rights can be more explicitly linked to the important fragile states agenda. There are various entry points, linked to the draft "Principles for Good International Engagement in Fragile States" (OECD, 2005b), to demonstrate where and how human rights could be made explicit and relevant. One promising approach could be to use human rights analysis as part of "understanding the context" and to adopt a "prevention mode" by focusing on the root causes of state fragility. Use of the "do no harm" principle could be extended to apply to both state capacity and the fundamental rights of the populations.

"Civilian protection" already offers a way of responding to humanitarian crises or violent conflict. A new entry point is the "responsibility to protect" as recently agreed by UN member states at the 2005 World Summit (UN, 2005a). Another fruitful option could be to consider the concept of human security (Commission on Human Security, 2003) in relation to fragile states and security agendas, as it integrates a focus on human dimensions and therefore human rights.

In order to promote more harmonised approaches, donors might wish to pilot human rights programming, including policy dialogue, in a

selected number of countries, for example where UN and bilateral agencies have made most progress. This could range from collaborating more closely on ongoing initiatives, and documenting joint work, to a more ambitious approach where new work could be undertaken in the context of enhanced harmonisation of work towards human rights at country level.

Part II

Case Studies

Chapter 5

Experiences from Agency Approaches

***Abstract.** Aid agencies have engaged in human rights to varying degrees. Different mandates, political preferences and trade-offs, and pragmatic considerations underlie this diversity. This chapter presents three short case studies of agencies (Sida, DFID and UNICEF) that have invested considerably in integrating human rights in development co-operation for a number of years. It describes not only a wide range of activities, but also what it takes to overcome the hurdle of putting policy into practice. It explores how agencies have worked to build institutional capacity from the inside and what it means to track success.*

Sida

Over the 1980s and 1990s, Sweden gradually developed a special form of co-operation involving direct work promoting democracy and human rights. The foundation for Sida's development co-operation in the field of human rights is formed by the international conventions and declarations. Sida's human rights work can be divided into two areas: work in countries in co-operation with their own governments or in co-operation with civil society, and work at an international level to promote democracy and human rights within the UN or other international bodies.

Box 5.1 Rationales for Sida's democracy and human rights-based approach

Sida closely links human rights and a democratic culture and institutions. It considers that democracy is essential in upholding human rights, and as such promotes free and fair elections, party systems, free media, rule of law, participation, tolerance and dialogue.

For Sida, a democracy and human rights approach contributes to development co-operation by building a shared pool of values based on the international conventions on human rights, and a process in which participation is a fundamental principle. This approach draws a clear division of responsibility based on the state's obligations and the individual's human rights. It takes a holistic view of the individual person's problem and potential, as well as a society's power relationships and power structures, which form the framework within which individuals act, alone or in a group. The democracy and human rights approach provides an analytical tool, which makes it possible to identify target groups, problem areas, power relations and structures, and thereby leads to a more efficient collaboration with co-operation partners and countries. Lastly, it provides measuring instruments and indicators that facilitate a clearer scrutiny of gains.

Policy development

Sweden has invested considerably, over a number of years, in human rights policy development. In 1997, Sida issued an action programme called "Justice and Peace: Sida's Programme for Peace, Democracy and Human Rights" (Sida, 1997). Three key government communications provided Sida's initial policy framework:

- “Human Rights in Swedish Foreign Policy” (1997; revised 2003).
- *Democracy and Human Rights in Sweden’s Development Cooperation* (1997).
- “The Rights of the Child as a Perspective in Development Cooperation” (2002).

In 2002, Sweden adopted a National Human Rights Action Plan, demonstrating its domestic commitment to human rights. In 2003, a new Swedish policy for global development was adopted by parliament (Government of Sweden, 2003a) that encompasses all Swedish overseas policy and requires coherence across trade, development, migration, etc. The policy calls for annual reporting back to parliament. It requires that a rights perspective, defined as including not only human rights and the rights of the child but also democracy and gender equality, be adopted across Swedish activities. It took a number of years to develop this new official policy and Sida was very much active in the process. Human rights NGOs also pushed for human rights to be part of the policy.

Box 5.2 Sweden’s development co-operation policy

Sweden’s policy for global development (Government of Sweden, 2003a) is to contribute to equitable and sustainable development. Swedish development co-operation aims to help build an environment supportive of poor people’s own efforts to improve their quality of life. It must be based on two perspectives: the perspectives of the poor and the rights perspective. The rights perspective is based on the global values expressed in the Universal Declaration on Human Rights and subsequent conventions. Key principles are: equality in dignity and rights, participation, openness and transparency, and accountability. Democracy, human rights, gender equality, children’s rights and respect for international humanitarian law are part of the rights perspective. The policy identifies eight global components: democracy and good governance, respect for human rights, equality between women and men, environment, economic growth, social development, conflict management and global public goods.

Sida’s new Policy and Methodology Department has identified the minimum requirements to be met by the assessment memo (submitted to Sida’s Project Committee) when preparing an intervention (Sida, 2005d). They require that the basic perspectives, including the rights perspective, be applied; the poverty analysis has a gender perspective; and the programme/project Sida is considering will not have negative effects on any of the areas covered by the eight central component elements (including human rights and gender).

Sida's current steering policy and methods documents are *Perspectives on Poverty* (2002a) and *Sida at Work* (2005c; 2005d). The new global policy is seen as creating a higher degree of awareness on human rights and democracy within Sida. They are complemented by shorter policy documents incorporating a rights perspective, such as the position paper *Poverty Reduction Strategies* (2005e) or the method document *Country Level Analysis for Poverty Reduction* (2005f). These documents were developed by a central team through a participatory process involving consultation with field offices, and with the participation of the Democratic Governance Division. These documents update the wide range of existing policy documents that Sida issued on children's rights (2005a) and human rights in the health (2002b) and education (2005b) sectors.

Relationship to Ministry for Foreign Affairs

The close relationship between Sida and the Swedish Ministry for Foreign Affairs has been vital in developing and implementing Sida's human rights and democracy approach. Sida is an independent governmental agency; while it receives its letter of appropriation from the Ministry for Foreign Affairs, it operates with a great deal of autonomy. It works very closely with the Ministry on human rights, in particular the unit responsible for global development (which provides guidance and annual appropriations). The Ministry's Division for International Law and Human Rights is responsible for the international human rights framework. The Ministry also has a duty to mainstream human rights within all its divisions, and has established a unit with its Division on Global Development to deal exclusively with issues relating to a rights-based approach, democracy, the perspective of poor people and ensuring coherence among these areas.

When the human rights policies were first adopted, a working group of programme officers was established between the Ministry and Sida, and a consultation group of directors ensured senior management commitment. Rather than develop new procedures, they initially used existing procedures and pilots. For example, the guidelines for the preparation of country strategies were piloted in Zimbabwe in 1998.

The Ministry and Sida collaborate closely. There is, for example, a Sida programme officer in Sweden's Geneva Mission responsible for support to human rights organisations (*e.g.* Swedish aid to OHCHR and human rights NGOs). Sida's current process of decentralisation to

Swedish embassies calls for greater co-operation between diplomatic and aid staff. The Kenya programme offers an illustration of positive experiences (Chapter 6).

Institutional capacity

Operational responsibility for Sida's democracy and human rights approach is located in the Democracy and Social Development Department, Democratic Governance Division, which works on democracy/power relations, human rights and children, with a relatively large staff of 25. They help the rest of the agency to implement a human rights-based approach by providing in-house training, as well as lessons learned, methods and tools. Responsibility for consistently implementing a rights perspective, however, rests with the whole agency. The Director General, Management Board and Policy and Methods Department are important stakeholders. Sida staff who attend the courses form part of the "democracy, human rights and child rights network" and act as advocates for the approach in their own divisions and programmes.

The Democratic Governance Division is also responsible for providing advice to country programmes. While this programming responsibility has limited the time available for policy and tools development, it also creates opportunities to contribute directly to country programmes and to learn lessons. As responsibility moves further to embassies and country offices, this link between headquarters and field offices is becoming crucial.

Institutional capacity was also strengthened by the appointment of three regional democracy and human rights advisers (in Bangkok, Nairobi and Harare) who share expertise with country programmes. They offer training and can review programme documents and advise on new programmes as needed. Capacity at embassy/country level is said to vary considerably. Limited training is provided in a systematic fashion (*e.g.* Sida induction and when staff move to the field). Training can also be organised on demand (*e.g.* Harare training for local staff). By comparison with other bilateral agencies, which often provide no human rights training and only have one full-time or part-time staff member responsible for human rights, Sida's combination of a strong policy framework and institutional capacity demonstrates a serious commitment to a democracy and human rights-based approach.

Tools

For historical reasons, only environmental and conflict issues are mandatory aspects of Sida's operating rules. In order to assist in a more systematic approach, Sida developed a *Guide for Country Analysis from a Democratic Governance and Human Rights Perspective* (Sida, 2001a). This questionnaire helps staff to conduct a country analysis, with questions covering human rights (human rights conventions, rule of law, personal security and integrity, family life, non-discrimination, standard of living and the right to education), democratisation, participation and good governance. Overall, it is not clear what impact this tool has had on Sida country strategies. It is not mandatory: the status of the questionnaire is as "a supplement to the guide on democratic governance which in its turn is appended to the guidelines for the Country Strategy Process". The direct involvement of headquarters staff in strategy development is considered to have been more effective, though the guide is seen as a useful mainstreaming tool.

More recently, Sida has been investing in "power analyses", which it also considers to be a way of putting its democracy and human rights approach into practice (Dahl-Østergaard *et al.*, 2005).

Box 5.3 Country analysis from a human rights perspective

The Guide for Country Analysis from a Democratic Governance and Human Rights Perspective (Sida, 2001a) was piloted in Zimbabwe starting in 1998. This process involved the Swedish Foreign Ministry and Sida staff, mostly at headquarters level, though there was a mission to the country.

The process was felt to lead to a richer and longer country analysis, with a better understanding of actors and processes. However, this initial effort was found not to have influenced the country strategy to a significant degree, despite touching upon political dialogue issues for the first time. Political events (land crisis and irregular elections) led to the expiration of the co-operation agreement between Sweden and Zimbabwe without renewal. In that context, the country analysis was considered useful: it had identified issues for political dialogue and meant that Sida was better informed.

Mainstreaming

Sida has also invested in developing policies and tools to mainstream human rights, democracy and child rights in other sectors, such as health or education.

The 2002 Government Communication on “The Rights of the Child as a Perspective in Development Cooperation” (Government of Sweden, 2002) comprised a 10-point programme: put children first, listen to children, invest in the future, exclude no one, education for all, equal opportunities for girls and boys, health for all, protect children in war, combat HIV/AIDS and stop exploiting children. The document highlights four strategic areas: right to health and medical care, social reforms, education for all and contributions for disadvantaged children.

In 2003, Sida reported back to government on how it had implemented the 10-point programme of children’s rights (Sida, 2005a). This report shows how Sida has been able to mainstream a child rights perspective. Sida’s policies and programmes contribute to the four strategic areas. They integrate well the principles of the best interest of the child, gender and non-discrimination, but participation has been more difficult to achieve. Sida’s policy documents have increasingly emphasised children’s rights. In 1999, a position paper *The Rights of the Child in Swedish Development Cooperation* was issued to serve as guidelines (Sida, 2000a). The *Perspectives on Poverty* document gives attention to children and adolescents in vulnerable positions (Sida, 2002a). A child rights perspective is also becoming more visible in country strategies, such as in the regional South America strategy and Zambia country strategy. The *Guide for Country Analysis* (Sida, 2001a), which requires paying attention to children’s rights, was seen as a contributor to this process.

The report found that Sida exerts international influence on children’s rights by working with the UN, EU and other bilaterals. Sida’s co-operation with the UN system highlights children’s rights. Support to WHO is based on a human rights perspective paying particular attention to women and children, for example in the areas of maternal mortality and the right to sexual and reproductive health. Its support to the ILO includes a project on “Understanding Children’s Work and its Impact”. UNICEF is Sida’s largest channel, with responsibility for 40 programmes in partner countries. Swedish NGOs also receive Sida funding and work with local organisations, in particular Swedish Save the Children. However, quantifying resources allocated to mainstreaming children’s rights beyond support to UNICEF and Save the Children is difficult.

This effort had been led by the equivalent of one full-time post in the Democratic Governance Division with responsibility for training,

developing material and acting as adviser, and a network of Sida programme officers who have received basic training in children's rights.

Historically, Sida staff responsible for gender have not been located within the division, and Sida's gender work has not been institutionally directly linked to its democracy, human rights and child rights policy initiatives (though there were strong synergies). Sida's 2005 policy *Promoting Gender Equality in Development Cooperation* (Sida, 2005g) replaces its 1997 action programme. It is based on a 2002 evaluation and subsequent consultations, which recommended that gender equality objectives be present with more effective strategies and clearer accountability within Sida. It states that "Sida should always use the universal human rights framework, in particular CEDAW, as the principle guideline and standard of work". In "Policy for Global Development" (Government of Sweden, 2003a), the rights perspective is defined as including women's rights and equal opportunities for women and men. Gender is also one of the eight central component elements. Strengthening rights for women, men, girls and boys is the first strategic area of the new gender equality policy (the second addresses power structures and relations). This first strategic area includes sexual and reproductive rights, understanding men's roles, securing women's and children's rights to physical integrity, strengthening institutional frameworks and paying attention to gender in conflict management and efforts to promote structural stability.

Dialogue

Sida makes it clear that its partnership with the countries, organisations and people it supports "is based on the human rights conventions that both parties have ratified, which further strengthens the rationale for promoting democratic governance" (Sida, 2001a). Sida has experienced a range of political dialogues on human rights as well as the application of human rights conditionality in some countries. The Government of Sweden has, for example, pulled out of Zimbabwe (its current programme only operates through NGOs on democracy, health and education) and is part of dialogue initiatives in Vietnam and Laos.

Global initiatives

Sweden hosted an important international conference on human rights and development in 2000 (Frankovits and Earle, 2001). Sida has been a strong supporter of mainstreaming human rights across the UN

system (e.g. OHCHR, HURIST, Action 2, WHO, UNDP, UNFPA, UNICEF). It also provides funding to international NGOs.

Evaluation

Democracy and human rights projects and programmes are difficult to evaluate, given issues of measurements (e.g. what are the right indicators) and attribution (e.g. what caused change, can it be attributed to a donor project). Sida has commissioned studies on the evaluability of democracy and human rights projects for logframe-related impact evaluations and a more general reflection on measuring democratic governance and human rights results (Forss, 2002). The following evaluations are currently being carried out, each using a different methodology:

- A traditional review of relevance and outcomes of NGO interventions.
- A programme theory evaluation examining the ideas and assumptions behind democracy projects.
- A preparatory study for an evaluation dealing with the “rights perspective” will be performed in 2006.
- A formative evaluation of the mainstreaming programme in Kenya will follow the implementation of the programme during 2005-2008.

Challenges

Sida has a very strong set of policy commitments. The challenge, as with all other donor agencies, has been to translate policy into practice. Agencies are only now entering a period of more systematic implementation. However, the process of decentralisation means that the centre has less influence; staff in field offices are overcommitted and may not know the policy. While training on human rights, democracy and the rights of the child is not compulsory, there have been significant opportunities for training over the years. Furthermore, there is pressure for donors to harmonise their aid at a country level. Human rights may lose out as a result of this process if donors’ country-level offices are not aware of their agencies’ policies. Some like-minded donors have not always been as strong as anticipated in the field. There may be the potential for greater exchanges at field and headquarters level, including through alliances of concerned donors.

Achievements

Given that Sida's democracy and human rights-based approach dates from 1997, it is possible to identify a number of enabling factors over the period. For example, a favourable domestic political environment has contributed to human rights overseas. An implementation approach based on human rights and democracy principles, rather than international human rights instruments, is seen to work better because the principles provide an entry point for discussion. This was the lesson of Sida's synthesis work on democratic governance (Sida, 2003) which is being integrated into Sida's human rights work. Sida's four principles are: equality in dignity and rights; participation; openness and transparency; and accountability. These principles are rooted in the international human rights framework, which remains at the core of Sida's work.

While there was initial resistance as a result of "mainstreaming fatigue", staff now ask for help and provide examples of what they have tried on the ground. There is a feeling that a democracy and human rights analysis improves Sida's work. Thanks to earlier policy efforts (which included human rights), the new global policy is better known by staff and includes a rights perspective.

UNICEF

UNICEF is the UN agency with the longest experience of a human rights-based approach. With external funding, it has invested considerably in documenting its experiences, which provides a solid basis for analysis.

Context

UNICEF's human rights-based approach to programming is shaped by its role in contributing to the drafting and adoption of the Convention on the Rights of the Child in 1989, as well as its special relationship to the Committee on the Rights of the Child and its interpretations of the CRC. During the 1990s, UNICEF moved away from advocating for CRC ratification and started using it as a framework for programme design and implementation. This has made UNICEF particularly receptive to the concept of HRBA. CEDAW has also played a role, albeit to a lesser degree. In addition, the UN human rights mainstreaming process, started

in 1997 with the support of the UN Secretary-General, created an overall supportive environment.

Box 5.4 UNICEF’s human rights-based approach

UNICEF’s HRBA to programming is clearly based on international human rights instruments, combining a focus on standards and principles (such as the four CRC principles). Programming was based on the “Triple-A” model of assessment, analysis and action, requiring participants to analyse immediate and structural problems, roles and obligations, and resources. It also encourages drawing on the CRC monitoring and reporting procedures.

For UNICEF, a HRBA has ushered in an institutional transformation, away from direct delivery of services built on a needs-based approach, towards developing the capacity of local actors and collaborating with a range of partners.

Key steps

In 1998, a HRBA to programming was declared to be an institutional priority and guidelines were provided by the Executive Director (UNICEF, 1998). Since then, the organisation has invested considerable effort in defining what such an approach means in practice so that the policy can be implemented, in particular through country programmes. Specific instructions accompanied the Executive Directive, giving responsibilities for dissemination and implementation to heads of offices, regional directors and division directors. UNICEF’s “Medium-Term Strategic Plan 2002-2005” combined a reinforced result-based management approach and a human rights-based approach to programming. It was developed through a widespread consultation process, involving staff from headquarters, regional and country offices. In fact, ultimately, every staff member and country office is responsible for implementation.

A book suggesting steps for the implementation of a HRBA to programming was published in 2003 (Jonsson, 2003). In addition, UNICEF’s “Programme Policy and Procedures Manual” is regularly updated (UNICEF, 2005). The first manual was issued in January 2000, reflecting UNICEF’s organisational transition to an approach to programming for children and women based explicitly on human rights principles. It provides up-to-date guidance on UNICEF programme

operations for use by country and regional offices. In 2004, the third update of the manual sharpened guidance on the HRBA to programming to reflect the consensus (including among UN agencies) and provided new expertise on topics such as gender mainstreaming.

Training materials have been developed by UNICEF headquarters and by some regional offices. There are two levels of training (introductory and advanced) as well as a programming course that includes a module on HRBA.

The HRBA to programming was first adopted in Africa and Latin America, and has inspired the rest of the organisation. The five-year programming cycle means that not all country programmes moved to a HRBA immediately in 1998. The latest progress review suggests that some regions are still not fully on board. A HRBA was progressively applied within UNICEF to its different sectors, beginning with protection, and moving to education, health and, more recently, water and sanitation programmes.

There has also been a significant effort in the field of documentation. The 35 case studies commissioned by UNICEF country offices and undertaken by UNICEF are a rich source of experiences on promoting the HRBA in UNICEF, both programmatically and organisationally (Theis, 2004). They contain a strong emphasis on excluded and marginalised groups. Most address the use of the principles of indivisibility and interdependence, which helped planning officers to strengthen child protection projects and to integrate child protection issues with health or education projects.

Two global consultations (Tanzania, 2002 and Ecuador, 2003) have brought HRBA experts together to identify issues requiring further study and to assess how to refine the approach. In addition, UNICEF's more advanced stage of implementation helped it play an influential role in the 2003 Stamford UN inter-agency meeting and the resulting UN Interagency Common Understanding of a HRBA (Annex).

Internal institutional change

Responsibility for developing and implementing the HRBA to programming has been shared between headquarters and country offices. An evaluation of UNICEF's capacity-building project points out that headquarters' role has been "... to provide support, co-ordination,

guidance, and often to push the HRBA agenda” (Robert and Engelhardt, 2005).

UNICEF has invested significantly in staff training. Senior staff appear to have played a particularly important role. In addition to formal management positions (such as heads of country offices), there have been signs of influence beyond formal management structures, such as semi-retired senior staff who “... command respect and exercise leadership”.

UNICEF reviews implementation of its HRBA to programming annually. In 2004, a study assessed progress over a five-year period (Raphael, 2005). Staff responses indicated that the human rights-based approach to programming is taking root. Over half (56%) of reporting countries had used it to design their country programme or undertake a country analysis, while over one-third (36%) reported taking a more multi-sector approach. The approach was seen to improve UNICEF effectiveness, primarily through improved co-operation with partners, but also within UN country teams, in projects and in planning. There were fewer examples of improved co-operation with CRC/CEDAW committees, PRSPs or resource mobilisation. There seems to be a good understanding of principles and theory. However, country offices were considered to need documentation of existing UNICEF good practices prepared for operational use, in particular for the regions that had less exposure to the approach.

About 75% of staff understand the approach and appreciated the training. Furthermore, the study recommended that training efforts should be continued, in particular in regions at an early stage of HRBA implementation and for new staff.

Adapting to context

UNICEF’s Quito Global Consultation in 2003 showed that the organisation used different approaches successfully according to country settings. In Latin America, for example, an initial focus on reforming national laws to conform with the CRC led many country offices to promote policy and institutional reform, with an eye toward establishing an environment in which children’s rights would be guaranteed and standards to which duty-bearers would be held accountable would be clearly spelled out. In countries where laws, policies and institutions are often less well developed, country offices have developed community capacity to demand and fulfil children’s rights – while at the same time

exposing state-level duty-bearers to human rights principles and the policies required to guarantee them. This is the approach adopted in Eastern and Southern Africa. UNICEF's work in Vietnam shows how progress can be slowly achieved even in difficult environments where notions of human rights appear not to coincide with the political system and culture (Chapter 6).

Challenges

The 1998-2003 Progress Review (Raphael, 2005) recognised a major challenge in the operations of government structures in partner countries, in particular when they operate in a highly centralised manner, with limited accountability. (Responses included working to enhance domestic accountability, for example through the public monitoring of budgets.) Some country contexts present even greater challenges, such as war-torn societies, widespread poverty or extremely weak capacity, where basic survival or institution-building is seen as a priority. There can also be open political resistance to human rights, for example in the context of sharp ethnic divisions where collecting disaggregated data or providing education in native languages is not politically acceptable. Yet resistance to human rights goes beyond governments and can include social norms and values, such as opposition to child and adolescent participation and a preference for seeing aid as charity. (Responses included communications strategies and paying more attention to the cultural context.) The review also pointed out that a community-focused HRBA approach could be demanding of communities and slow in delivering results.

Box 5.5 UNICEF's operational constraints

- Like other donor agencies, UNICEF is hampered by internal capacity gaps, such as limited understanding, high staff turnover, over-stretched staff, or resistance to an approach that may be perceived to be more difficult (such as focusing on process and not just outcomes), and have inadequate resources to handle confrontation with governments.
- Bringing other partners on board can be difficult: it requires time, training and dialogue. Other donors may not always be favourable to a HRBA, and may put cost recovery or private sector legal security first.
- A few country offices reported the need for more practical guidance focusing on results.

Lessons

Some bilateral agencies may feel that UNICEF should be considered an exception, given the special role played by the CRC and the focus on less controversial and more clearly defined children's rights. However, a number of lessons, in particular with regard to institutional change and approach to country programming, are still relevant for other agencies

UNICEF has invested considerably in documenting its change process. Clear instructions from the very top of the organisation as well as revisions to the "Programme Policy and Procedures Manual" (UNICEF, 2005) have given prominence to the approach at an institutional level. The agency sees a difference between country offices that have been working on a human rights-based approach for some years and those that are still relatively new.

DFID

How human rights can make a wide range of contributions to poverty reduction has been shown by the "DFID Human Rights Review" (Piron and Watkins, 2004), probably the most detailed examination of a bilateral agency's experiences yet. The main finding was that there is a large body of work supported by DFID, integrating human rights into development policy and programmes on three main levels: central, country and sector. There is also an important constituency of staff, across departments and professional backgrounds, who have an interest in human rights and are developing innovative approaches and activities.

Central level

DFID channels support to a number of international organisations in support of human rights. This includes building capacity for developing and monitoring international human rights standards (Office of the UN High Commissioner for Human Rights), developing a UN inter-agency common understanding on the meaning of a human rights-based approach to development (2003 meeting), and fostering the adoption of human rights-based approaches in the UN (*e.g.* UNICEF) and international NGOs (*e.g.* ActionAid).

DFID favours innovative research activities, drawing on field experiences in country programmes to feed directly into new strategies. It promotes voice, participation and accountability, and supports

processes to make budgets more transparent and participatory. It is piloting new participatory tools, such as the Participatory Rights Assessment Methodologies (Brocklesby and Crawford, 2004). In its research activities, DFID has explored issues such as linkages between livelihoods and rights, and analysed the relationship between rights, poverty, growth and inequality.

DFID has developed rights-based policies that guide its interventions. It is encouraging and supporting the move within civil society away from solely a service delivery role, towards developing local capacity for policy engagement, monitoring and advocacy. In addition, it has a pro-poor approach to safety, security and access to justice, and has worked hard to develop new policy on core labour standards and poverty reduction.

Country level

In some countries, DFID has used a human rights analysis to inform strategy and set overall objectives. Its three human rights operational principles of participation, inclusion and fulfilling obligation have been used to highlight social exclusion and inequality in Latin America (Bolivia, Brazil and Peru). DFID is placing gender equality and non-discrimination at the centre of its activities in Bangladesh, and has used an analysis of international human rights standards and reporting obligations in its work in the Overseas Territories.

An analysis of integration of human rights into country programmes has been a key feature in DFID's work in Malawi, where it has focused on pro-poor governance and the development of rights-based sectoral interventions in health, education and livelihoods. It has also commissioned research on human rights and citizenship to inform the direction of the country strategy and programme in Rwanda.

The agency has integrated human rights into strategic aspects of its programme delivery, such as human rights dialogue in bilateral talks (China), a Memorandum of Understanding detailing a shared commitment to the promotion and protection of human rights (Rwanda), the use of aid instruments in direct budget support (Uganda) and its work with the European Commission in the Middle East and North Africa.

Sector level

At the sector level, DFID works to help particular groups in claiming and enforcing their rights, such as:

- Women, by supporting the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (China) and collaborating with UNIFEM on gender and racism (Brazil).
- Children, by developing a child protection strategy (Overseas Territories).
- Minorities, by promoting social inclusion of the Roma minority (Eastern Europe).
- Indigenous peoples (Latin America).
- Workers, by improving core labour standards, including support to the International Labour Organisation and work on child labour and child trafficking (India and South-East Asia).

DFID works on the “demand side” of justice reform by enabling poor people to know, claim and defend their rights through public information campaigns on land inheritance rights for women (Zimbabwe) or public interest litigation (Bangladesh).

Over the years, DFID has launched a number of initiatives designed to make governments more respectful of the rights of citizens. It has collaborated with civil society to promote human rights principles (Bangladesh), civic education and women’s political empowerment (Kenya). DFID has strengthened accountability of parliament by its work with civil society (Malawi). And it has promoted free and fair elections in many parts of Africa. DFID has helped communities to ensure proper management of public expenditures, by supporting their right to participate in resource allocation decisions through district-level monitoring committees (Uganda).

DFID has promoted the radio as a source of information for peace-building efforts (Democratic Republic of the Congo) and encourages media self-regulation to balance freedom of speech with legitimate restrictions (Russia).

Other initiatives have focused on poor people’s access to justice by undertaking sector-wide reforms in the security and justice sector (Malawi), developing culturally relevant policies and systems to provide

protection from domestic violence and child abuse (Jordan), and bringing a rights-based approach to health service delivery (Peru and Nepal).

DFID funding has helped those trying to protect communities during and after conflict (UN human rights presence in Iraq, UN Special Representative of the Secretary-General on Children in Armed Conflict and UNIFEM in protection of women in conflict situations).

Chapter 6

Experiences from Country Programmes

***Abstract.** While the most common form of human rights assistance has traditionally been projects, a more strategic approach attempts to integrate human rights in the design of a bilateral or multilateral country strategy. This chapter provides illustrations of three country programmes: Sida in Kenya, UNICEF in Vietnam and DFID in Peru. It shows that country-level approaches create various opportunities, such as promoting human rights through co-ordinated, parallel interventions in different sectors (e.g. children's rights in legal and social sectors), encouraging a focus on human rights principles (e.g. participation and accountability) in more technical areas (e.g. roads or water), or supporting the realisation of economic and social rights (e.g. labour standards or social protection). High-level political dialogue, processes of political opening and partner government ownership are important enabling factors.*

Sida's Kenya programme

Sida's work in Kenya provides a good illustration of how to integrate a democracy and human rights perspective at different country programming levels.

Country strategy

The Ministry for Foreign Affairs and Sida have been working closely together to adopt a more strategic approach. They began by designing a more coherent strategy for dialogue with government towards the end of the Kenya African National Union era in 2002, given the large number of donor dialogue mechanisms at the time. This resulting strategy focused on equality, participation and good governance, and allocated responsibilities to all staff to engage in dialogue.

At the same time, they drew up a new country strategy. The country analysis revealed that a lack of good governance and government commitment to fulfilling human rights obligations was a fundamental obstacle to development. This process required internal negotiation within the embassy (*e.g.* between the economist and the human rights adviser). As a result, the overall objective of Swedish development co-operation for Kenya during 2004-08 is to contribute to Kenyan efforts to reduce poverty by improving democratic governance. Improving service delivery – central to this effort – calls for the integration of the principles of non-discrimination and equality (regardless of regional differences, gender and age), accountability, transparency and participation.

Sida's strategy rests on three pillars:

- Democracy and human rights as a focus programme area, directly supporting human rights organisations and also sustaining the Governance, Justice, Law and Order Reform Programme through support to both government and civil society.
- Dialogue on human rights and democracy, focusing on inequality and discrimination.
- The integration of a democracy and human rights-based approach across the programme, in particular in roads, urban development, health, agriculture, water and justice.

Dialogue

In order to promote dialogue, the embassy launched a project to put “equality for growth” on the public agenda by working with civil society organisations, research bodies, media, other donors and decision makers in the executive and parliament. A Memorandum of Understanding was established between the Ministry for Planning and National Development, the Society for International Development (an implementing NGO) and Sida, with agreement to focus on gender, regional and income inequalities. Project activities include collecting data on inequality in Kenya and helping the ministry to disseminate its poverty map to line ministries. The ambassador has written in the press on inequalities. As a result, inequality has become a national issue and the project has grown to include other partners such as UNDP and ActionAid. A national conference is being planned for 2006.

Mainstreaming

Since 2003, the Mainstreaming in Action Project has been working to better integrate human rights and democracy principles (non-discrimination, participation, accountability and transparency) into the sector programmes funded by Sida. It aims to develop the capacity of the Government of Kenya and other key actors to identify and use mainstreaming indicators, undertake implementation in a manner that promotes mainstreaming, participate in dialogue, and develop an adequate monitoring and evaluation system. Target sectors are: roads; water; health; integrated land and urban sector; governance, justice, law and order; and agriculture.

To date, the project has developed the capacity of Sida programme staff to work out indicators and participate in dialogue with government on mainstreaming issues in the assessment and implementation of programmes. It has also succeeded in developing a network of local resource persons to support the design and implementation process. They comment on programme documents, participate in seminars and develop the capacity of staff in ministries. These resource persons are drawn from local organisations, such as the International Federation of Women’s Lawyers, the Institute for Law and Environmental Governance, or the Child Rights Advisory Documentation and Legal Centre, as well as UN agencies such as UNIFEM and UNICEF.

In the agricultural sector, a seminar was held for district managers in agriculture and livestock, in the government and in the National

Agriculture and Livestock Extension programme. In the roads sector, 130 participants at a seminar put together a list of 30 recommendations. The roads project is a success thanks to a high degree of local participation (with attention paid to how women and children can benefit), local accountability structures, and public information about the initiatives at local markets. In the water sector, there has been emphasis on accountability to the public of the new water boards.

There is government ownership of the process: the President of Kenya has announced that he wants Kenya to be “a rights-based state”. The Kenyan National Human Rights Commission, a project participant, held a joint experience-sharing workshop on rights-based approaches with the Swedish Embassy in 2005. The workshop influenced not only the human rights action plan, but also the planning of government budgets. It drew attention to the importance of consultations to obtain people’s views, capacity development (including human rights awareness), communication and information, complaints mechanisms and co-operation across government.

UNICEF’s country programme in Vietnam

This country programme demonstrates the results of long-term engagement built on high-level political dialogue in centralised socialist political systems, using non-confrontational language. When UNICEF first introduced child rights principles in its analysis and planning, explicit rights language would have been too sensitive. By broadening the range of its state and party counterparts, UNICEF was able to raise awareness of children’s rights in a number of areas. As a result, UNICEF has made progress in legal reform, juvenile justice and child protection. Patience, persistence and appropriate strategies for the use of language were instrumental in this process.

UNICEF achievements

In order to make children the subjects of rights in the legal system, UNICEF began working with a variety of partners in 1996. Training on children’s rights with the Ho Chi Minh Political Academy led to a network on children’s rights, which meets twice a year to explore how to promote child rights in academic training. In partnership with the ministries of Justice and of Public Security, the sessions have trained judges, lawyers, prosecutors, police, prison staff and border guards.

Work on juvenile justice started in 1996, with a focus on disseminating international standards and integrating them in the reform of the Criminal Court and Criminal Procedure Code. UNICEF trains a wide range of staff and is the only agency allowed to work in prisons. By 2002 the Polit Bureau called upon the government to create a special court for families and juveniles, and UNICEF has supported discussion of the proposal and an intersectoral Plan of Action for Juvenile Justice.

Constraints in making more progress have included: the scale of UNICEF support, based in a small rights promotion project; the sensitive nature of reforms aimed at strengthening the status of citizens vis-à-vis the state; and the priority given by the government to legal reform in relation to the economic sector (*e.g.* for accession to the World Trade Organization).

Work in the area of child protection has also been challenging. The CRC recommends national systems of social work and counselling, and non-institutional forms of childcare. However, there are few trained professionals, including social workers. There seems to be ideological resistance to this approach, and there are few independent NGOs, which would typically provide a central role in such systems. In the 1990s, however, UNICEF and others were able to advocate for alternative care. Following a conference in Stockholm in 2002, the government reviewed its policy of institutional care and replaced it with alternative models of community-based care. This called for a wide range of consultations with officials, though less participation by non-state actors such as parents or children themselves. (The policy change was also prompted by rising numbers of children in need of care and insufficient state budget to meet this need.)

Other areas of progress have included a more integrated approach to policy development in child policy, with UNICEF supporting the development of Vietnam's first national family strategy (which still does not mention the need for establishing a national profession of social workers), and efforts to encourage more participation within UNICEF programmes. In 2001, UNICEF supported the review of the National Action Plan for Children, and the preparation of the next one. This was the first time children from all parts of the country discussed child policies and programmes with the political leadership. There has been less progress with developing monitoring and accountability structures, in particular outside the state.

Main experiences

In documenting its experiences with a HRBA to programming, UNICEF has commissioned a Vietnam case study (Salazar-Volkman, 2004). The study produced some interesting findings:

First, HRBAs can be applied in difficult environments. This requires a careful analysis of the functioning of political, economic and social systems, in order to identify national windows of opportunity. UNICEF requires government approval for all its activities. While tight control characterised UNICEF's work until the *doi moi* reform process, staff then became able to travel and interact with sub-national counterparts, and engage in policy advice. As Vietnam opened to the international economy, it also worked on nationalising international concepts which created a favourable context for introducing child rights. UNICEF's progress, however, has been closely linked to the political strengths of reform forces within the Communist Party. Progress can only be achieved in this environment in close concert with the authorities: "Human rights-based programming can become acceptable within a political environment such as Vietnam only when it has evolved from a successful political dialogue at the very highest levels". UNICEF has made inroads in the more traditional social and economic rights areas while using appropriate political momentum to include more sensitive civil, political and cultural rights.

Second, UNICEF adopted a progressive approach that yielded results over time. Without using the sensitive language of rights, situation analyses and master plans of operations promoted the principles and underlying ideas behind a rights perspective. Government partners became progressively more comfortable with the approach. Trust was built thanks to UNICEF's continuous presence since the war in 1975, even during the Western-led embargo. Senior UNICEF management staff were the most important agents of change in a process that included a broadening of counterparts, including in the Committee for the Protection of Care of Children and the Women's Union. The Committee increased understanding of child rights across the state and society, so that eventually child rights language could even be found in official documents. Thus "... patience, persistence and appropriate strategies for the use of language were instrumental in the process".

Third, child rights, based on the Convention on the Rights of the Child, provided an entry point for a human-rights based approach. As the Convention had been developed with the support of socialist countries

during the 1980s, the Vietnamese Communist Party found it politically acceptable. Government ratified the Convention early, starting a process of implementation measures, such as legal reforms and action plans to harmonise laws, policies and practices.

The rights of indigenous people, by contrast, can be more difficult to address. In Vietnam, and East Asia more generally, the rights of indigenous peoples are seen as a matter of national security and can be taboo. (This is in sharp contrast to Latin America, where such issues are publicly debated.) There has also been less progress on women's rights. Though CEDAW was ratified before the CRC, it took longer to disseminate it across government and society. Its integration in the national legal system is still weaker than that of the CRC, reflecting stronger cultural and political resistance.

Finally, economic liberalisation can constrain the realisation of economic and social rights. Vietnam's process of privatisation and economic reform is seen as having contributed to poverty reduction, but this has been associated with processes of marginalisation as subsidies are cut back and service delivery is reformed. Given that the government is committed to equity, it is difficult for outside actors to raise concerns over discrimination and social exclusion. The author of the case study is concerned that neither government nor international financial institutions define their economic policies in a human rights framework and that UNICEF's capacity to negotiate in those areas is weak. It recommends UNICEF engagement with the World Bank and the International Monetary Fund in a "critical dialogue about ethics in economics" and on MDG 8 so that human development concerns are taken into account.

DFID's rights-based programming in Peru

Between 2000 and 2005, DFID Peru applied an innovative rights-based approach to its programming. The following description of key lessons is based on a study that DFID commissioned to document its experiences in Peru, prior to its departure in March 2005 (DFID, 2005b).

Context

DFID's country programme in Peru was particularly shaped by two factors: DFID's analysis of the causes of poverty in Peru, and the conceptual framework shared by the DFID Peru advisory team. This framework was built on three themes – a rights-based approach,

citizenship and accountability – and guided the team in addressing the causes of poverty in Peru. While the rights-based approach adopted by the Peru team drew on the policy paper, *Realising Human Rights for Poor People* (DFID, 2000a), it is also clear that team members were able to take a rights-based approach further than has been the case in most other DFID programmes. This was partly due to the experience and relative autonomy of the advisory team in Peru (and the strong links it had with the DFID Bolivian office). It was also due to the dominant views within DFID regarding the issues of inequality, governance and rights in Latin America.

DFID's main analytical entry point in Peru was the country's extreme inequality. Despite its status as a middle-income country, Peru has sustained high levels of poverty. DFID Peru's analysis of the historical causes of poverty and exclusion in Peru made it clear: working towards poverty reduction would require a strategy that addressed the exclusionary power relations and ethnic discrimination that underlined Peru's inequality. This led to a focus on inclusive citizenship and rights through the strengthening of relations between state and society.

Translating concepts into action

For the Peru team, the concept of active citizenship provided the bridge between state and citizen. Political events in Peru provided the opportunity for the team to give greater weight to the role of both government and civil society in supporting poor people's actions. This concept was translated into practice through activities aimed not only at developing the capacity of duty-bearers and rights-holders, but also at strengthening the relationships between state and society. As a result, DFID Peru strengthened accountability through support to the mechanisms of citizen participation and oversight, and to the formal institutions of representative democracy. Furthermore, the team cultivated new alliances for change, and nurtured existing networks within and beyond Peru. In so doing, it tried to bring together those civil-society actors working on civil and political rights (human rights organisations) and those working on economic, social and cultural rights (organisations working on sustainable development and poverty reduction).

Supporting institutions for political inclusion

The change of government in Peru in 2000 opened the door for DFID to encourage public participation at the local and national levels – in an attempt to transform Peru’s “top-down” system of governance. DFID launched various programmes to operationalise this part of the country strategy.

The Programme in Support of Electoral Processes and Programme in Support of Regional/Municipal Elections (El Gol) worked with a coalition of state and civil society organisations to facilitate electoral education and oversight during national (presidential and congressional) and regional (regional and municipal) elections. By fostering the active involvement of poor people in the electoral process, the programmes set out to strengthen citizenship. It was hoped that this would make the political elite more responsive to the voice of the poor and their call for economic and social rights, through the exercise of their political rights.

While the first programme had limited impact in terms of combating political exclusion, it did allow DFID to establish new working relationships and provided valuable lessons for the subsequent regional programme. DFID saw a need to facilitate debate and the adoption of common positions between partner institutions. It also highlighted the difficulty of promoting citizenship among the most disadvantaged, as relationships with local communities tended to be mediated by the local political elite. As a result, the El Gol programme, which provided training to mayors and helped citizens to undertake participatory budgeting, provided closer co-ordination among the institutions involved. It helped them to pool resources and common platforms, and focused efforts on reaching poor votes in the most marginalised areas.

DFID also provided support to political parties and the system in which they operated. DFID was concerned that, in order for poor people to capitalise on the opportunities presented by the increased democratic environment, Peru’s political parties needed to provide a more effective bridge between state and society. DFID’s strategy had two main components:

- Support to the redesign of the institutional and legal framework in which the political parties operated: DFID brought together state and civil-society actors to find consensus on a new Law of Political Parties and a reformed electoral code. The new law would create a system of incentives to establish a responsive party system. It encouraged party consolidation by creating

barriers to small, unrepresentative parties, and created obligations with respect to internal democracy and financial transparency. After the law was adopted by parliament, DFID supported its implementation.

- Working with the parties themselves: DFID helped the parties to interact and encouraged them to think more about poverty and how to tackle it. This is clearly a sensitive area for a donor. DFID contributed to (and benefited from) work undertaken at a regional level, particularly by the Inter-American Development Bank. DFID participated in the Agora project, a series of meetings that brought together militants from a wide range of parties to explore how to strengthen party governance. It emphasised inclusiveness by facilitating the participation of all parties and by encouraging the involvement of local party activists (including the women and the young), and held meetings outside Lima.

The Political and Financial Accountability Programme encouraged political inclusion through the review of fiscal issues (notably tax reform and budget transparency), promoting accountability and responsiveness to poor people. This innovative programme was inspired by collaborative work on tax reform with the Inter-American Development Bank, which had allowed DFID to broach a politically sensitive issue. The programme focused on the equity potential and accountability functions of fiscal policy (rather than simply efficiency). It set out to ensure that resources reached excluded groups, on the expenditure side; and promoted the perspective that paying taxes is not only a duty but also creates rights, on the revenue-creation side.

Supporting networks

DFID Peru took the strategic decision to broaden networking and alliance-building activities with government and civil society, as well as the international community, in order to influence different arenas of dialogue and negotiation. The Improving the Health of the Poor through a Rights-Based Approach Programme took a rights-based approach to healthcare: it was designed to improve access for Peru's poorest citizens by supporting existing networks of health professionals, including the Social and Economic Research Consortium.

The Consortium had produced a study in the late 1990s that challenged the success of Peru's supply-side health-sector reform. It

found that a quarter of Peru's population lacked access to healthcare, and that the most marginalised communities were excluded. In the face of government attempts to close down public debate on this issue, the Consortium sought institutional support from DFID. The DFID programme was designed to improve the public services run by the Ministry of Health and defend citizens' health rights by supporting the Ombudsman's Office and civil society organisations. For example, one project established a national umbrella network, ForoSalud, to spark debate about health policy and generate alternative proposals to that of the government.

Lessons

Innovative thinking about rights and pro-poor change in Peru was shaped both by institutional factors (such as the autonomy and experience of DFID advisers, and the prevailing assessment of the key causes of poverty in Latin America within DFID) and the wider environment in which the team was working (such as political changes within Peru).

The advisory team grounded the programme in a deep understanding of Peru's history and the ways in which this had shaped its structures and institutions and the power relations between its actors. Combined with a shared conceptual framework and the team's commitment to engaging with wider conceptual debates about political and social change, this provided a lens through which to analyse the causes of poverty in Peru, to understand recent national and local changes, and to translate these into a programme for action. One of the key conclusions was that many of Peru's problems lay in the political, not technical, domain. Hence DFID adopted an approach to tackling inequality that fostered inclusive political institutions through support for alliances of change.

An innovative element of the rights-based approach adopted in Peru was the explicit recognition that – because it attempted to change power relations within society – it was an inherently political approach. This meant that DFID was itself a political actor. This raised difficult issues regarding the legitimacy of action, the practice of power and lines of accountability, and meant that there was the potential for conflict between DFID and the state. For instance, questions regarding the right of a donor agency to intervene in domestic political processes emerged from, *inter alia*, DFID's work with political parties and its health sector

programme (that supported organisations overtly critical of the government's policy).

DFID's programmes in Peru underline the importance of fostering a bridge between state and civil society (rather than working simply with one actor), and of seeking to build broad coalitions that involved a variety of actors. However, many programmes also highlighted the difficulties this involved in practice. For instance, the critical stance of the organisation involved in the health network, ForoSalud, undermined its ability to achieve internal consensus and foster relations of trust with the Ministry of Health.

Peru's middle-income status meant that, at GBP 3-4 million per year, the budget for the country programme budget was relatively small. However, the team made an impact because its assessment was that poverty and inequality in Peru prevailed, not from lack of knowledge about what to do to reduce poverty, but from uncertainty about how to do it. The Peru team therefore focused its efforts on supporting processes rather than providing technical assistance.

The departure of DFID from Peru has underscored the necessarily long-term nature of rights-based programming. For example, while some of the networks that DFID supported have become institutionalised, others remain incipient and may not survive in the absence of support. Other, pre-existing, political groups that have been collaborating with DFID may also lose momentum once DFID withdraws completely.

Chapter 7

Experiences from Specific Projects and Programmes

***Abstract.** Most of donors' positive support to human rights is still implemented using the oldest tool in the development toolbox: project aid. Positive support projects seek to achieve a broad variety of goals and engage a wide range of political entities. Despite the limitations inherent in this mode of delivery, there are many examples of innovative and successful projects. This chapter explores the experiences from several projects and programmes, covering the areas of women's and children's rights, the right to identity, access to justice, land rights, minority rights and the right to water. The case examples are from SDC and UNICEF, DFID, USAID, UNDP, UNIFEM, CIDA, and the international NGOs Minority Rights Group and WaterAid.*

SDC-UNICEF Girl Child Project in Pakistan

The Girl Child Project is a joint SDC-UNICEF collaboration implemented by Family Planning Association of Pakistan (FPAP). It is a component of both SDC Pakistan's Rights and Non-Formal Education Sector Programme and UNICEF's Advocacy and Communication Programme.

The project addresses the deep-seated structural discrimination faced by women and girls in Pakistan by developing the capacity of adolescent girls from marginalised rural and urban communities and raising awareness about rights. Initially piloted in 10 locations, the project had reached 730 communities and 35 500 girls by the end of 2004.

The project was designed to mobilise girls to become role models and agents of change in their communities. Two groups of activities give them visible and useful skills. First, home school training addresses the lack of equal access to education for girls and their lower levels of literacy by training girls to set up their own home schools. This provides them with a source of income and provides non-formal education for other girls within the community. In each community, about 12 girls received basic education – a total of 1 185 girls by the end of 2004. Second, a course teaching first aid techniques helps meet the need for trained medical professionals in marginalised areas and provides training for girls to provide first aid within their community and treat minor ailments.

These capacity development activities enhance the perceived value of the girls and improve their status within their family and community. Moreover, by motivating the girls to initiate small-scale activities, such as the home schools, they also have a positive and cascading impact on other girls within the community.

Providing the girls with leadership and negotiation skills is also of tremendous importance. Those involved in the project report that one of its biggest contributions is transforming the sense of self-worth and confidence of participants. The training inspires leadership and volunteer spirit in the girls, giving them an impetus to improve conditions in their homes and communities. Furthermore, by teaching the girls persuasion skills, the project helps them to win support for these activities from their family and community elders in a culturally sensitive and non-confrontational manner (Box 7.1). The result is increased community commitment for educating girls. And because they now realise that boys

play a key role in creating an enabling environment for the fulfilment of girls' rights, communities include adolescent boys in the project.

Box 7.1 Using new negotiation skills

Jannat Bibi, who lives in a village near Badin, Sindh in South Pakistan, was engaged to an older man at the age of 3. After participating in the Girl Child Project when she was 16, Jannat became aware that she had the right to make her own decisions about her life. The project trainers encouraged Jannat not to rebel against her family but to instead work to convince her elders to support her choices. The training that Jannat had received gave her knowledge about her rights and the confidence to begin the long process of persuading her family that she should be able to cancel the engagement. Despite initial strong resistance, Jannat was able to achieve her aim. She feels that, by giving her the skills to do this, the Girl Child Project has changed her life.

The project enables girls to obtain their rights without inducing a negative reaction from the family and community. A key constraint that the project initially faced was resistance from within some communities, including from religious leaders, to the involvement of their girl children in the project. By concentrating on one-to-one advocacy efforts, FPAP managed to convince key members of the community of the benefits of the project.

The unique approach of the project clearly increases the sustainability of the project's achievements. In order to ensure sustainability further, FPAP is developing an exit strategy by identifying potential links with existing community-based mechanisms. The organisation is also conducting a Training of Master Trainers course.

Participants evaluated the project, and helped to produce a film documenting the impact of the project through their eyes, which is being used as an advocacy tool at local, national and international levels. Thanks to its success, the project has been selected for a number of awards, and girls from the project have been included in a number of UN events. It has also had a significant impact on SDC's entire country programme in Pakistan: a human rights strategy was launched which establishes human rights both as a sector (the promotion of women's and children's rights) and as a cross-cutting issue for the country programme as a whole. Today, a human rights-based approach is in place for the country programme.

DFID Right to Identity project in Bolivia

More than 10% of Bolivians do not have a birth certificate; this figure can be as high as 55% in marginalised areas. Some 20-30% do not have an identification card, and in some areas this figure is as high as 84%. The lack of legal documentation prevents citizens from participating in the political process, in particular in indigenous areas. Bolivia is in a period of political instability: its national electoral court is perceived as inefficient and unable to register citizens in rural areas. In addition, a lack of knowledge of citizens' rights and obligations has further hindered political participation. The most affected are those who are illiterate, who do not speak Spanish or who do not readily accept the concept of democracy (for cultural or other reasons).

DFID recently co-funded a project to foster the right to identity in Bolivia. It set out to promote more inclusive political participation by strengthening the capacities of the state and citizens to demand rights and fulfill obligations. Documentation and registration campaigns can reduce the number of undocumented persons in Bolivia. Laws, procedures and processes, however, also need to change if results are to be sustainable. Therefore, DFID aid helped provide identification documents to undocumented Bolivians (especially the poor, women and indigenous people). It helped inform civil society, civil registration officials and members of the electoral court by raising awareness about citizens' rights and the processes to promote a more inclusive participation in referenda and municipal elections. In addition, it increased the capacity of the National Electoral Court and Registration Service to efficiently and effectively undertake referenda and elections, and helped create a plan to strengthen these institutions for the medium term.

Political tension and poor communication between state and civil society made formal co-ordination at the national level difficult. It was easier at the departmental level, where departmental electoral courts, national police and ombudsmen constituted registration brigades.

From the rule of law to access to justice

Rule of law

Good practices in the rule of law area can be used to develop state capacity to meet fundamental rights standards, for example in the area of criminal justice.

USAID is one of the leading bilateral agencies in the field of the rule of law. It has worked in this area for almost 20 years and has significant capacity at headquarters to undertake lesson-learning exercises and develop new tools. Contractors deliver rule of law activities in over 50 USAID country offices. Though USAID does not have a human rights policy, a number of its rule of law activities contribute to improving respect for civil rights. In the 1980s, for example, justice programmes were developed in Latin America aimed at reducing abuses.

USAID started working in Bolivia in 1986. Since 1992 it has supported efforts to modernise the national rule of law. The reform of the criminal justice system has been a significant achievement. In 2001, when an oral, accusatory process (based on a UN model criminal code) was introduced, USAID helped tailor the process specifically for Bolivia. It funded training in the new code for criminal court judges and the establishment of an Office of Public Defence in the Ministry of Justice so that the constitutional right to defence could be respected in practice. Some 200 public defenders now provide representation to the majority of criminal justice defendants. It is reported that more precautionary measures are being used and that times in pre-trial detention are being reduced.

Access to justice

Several donor policies and practices have moved towards adopting a human rights-based approach to rule of law and law enforcement work (either explicitly or implicitly). Agencies that have not embraced such an approach (such as the World Bank or USAID) have nevertheless adopted a focus on access to justice as an aspect of programming.

In Bolivia for example, USAID is supporting the development of Integrated Justice Centres to improve access to justice for isolated and predominantly indigenous populations, in areas where the central government has tenuous authority. Trained professionals provide advice

on the formal judicial system as well as conciliatory services to help resolve local conflicts.

Another example is that of German collaboration in Zambia in support of women's rights to institutionalise gender equality in law, and work with customary law and lay judges. Legal information and awareness training has fostered greater confidence among women, and greater respect and support among men.

DFID has more radically changed its policy, now explicitly referring to "safety, security and accessible justice" (DFID, 2002) and placing poor people's own experiences of insecurity and injustice at the heart of the analysis. As a result, an integrated or sector-wide approach examines how a justice system operates as a whole, and recognises the need to work better across institutions, rather than with individual partners. There are a number of examples of programming (Piron and Watkins, 2004). Interestingly, DFID has not "branded" its new policy as being a HRBA, though it can be considered to be implicitly following it – with the exception of the lack of systematic attention to human rights standards. A new strategy for security and development (DFID, 2005d) commits DFID to integrating safety, security and access to justice more systematically with security sector reform and human rights.

Following recommendations in a 2003 evaluation, SDC is updating its rule of law policy, and moving towards poor and marginalised groups' ability to claim and enforce their rights.

The South Africa juvenile justice project (implemented in collaboration with UNDP) has helped develop a more appropriate youth justice system, in particular in the area of diversion. Its goal was set in human rights language by referencing the CRC (Article 37) and other international norms and standards. The project demonstrated that it was possible to work on policy reform even before the legal framework was finalised, and to prepare partners for implementation. Significant efforts were made to cost the Child Justice Bill adequately, setting a standard for future policy development processes. A ministry team with a range of skills managed the project. The team adopted an intersectoral approach (bringing in Treasury and provincial-level officials), but the set of potential institutional partners and beneficiaries was limited (an annual average of 100 000 to 200 000 candidates for diversion). The team developed a strong relationship with NGOs. In fact, NGOs established a coalition, the Child Justice Alliance, even though this was a governmental project.

Austrian Development Cooperation has launched a similar project in the area of child justice. It is helping the Government of Namibia to amend its legislation and regulations so that they are consistent with its constitution and international human rights commitments. The Child Justice in Namibia Project is correcting structural and professional deficits in the legal system by building an autonomous integrated child justice system. This will strengthen the ability of the Government of Namibia to protect the rights of children who come into conflict with the law by establishing laws, procedures and institutions specifically applicable to them.

UNDP has developed an access to justice policy that emphasises a human rights-based approach. It prioritises people's equal ability to use justice services – regardless of their gender, ethnicity, religion, political views, age, class, disability or other sources of distinction. In the Asia-Pacific region, it is already documenting lessons learned. Like DFID, UNDP focuses here on the various stages and capacities needed for citizens to move from grievance to remedy, ushering them through a process of recognition of a grievance, awareness of rights, claiming, adjudication and enforcement. Using this approach, the justice system is analysed from the perspective not just of institutions, but also of citizens and the barriers they face.

Intensive participative research with local researchers is uncovering barriers to accessing justice, small-scale pilot projects are shrinking some of these obstacles by bringing together duty-holders and rights-bearers, and efforts are directed at the informal sector in this first phase. A case study (UNDP, 2004) points out that this approach is resource-intensive: it requires that the donor agency commit time, funds, and staff and management capacity. It also calls for local partners willing to work in this new way.

UNIFEM's Women's Rights to Land in Central Asia Programme

It can be difficult for field offices to identify entry points for strengthening the capacity of duty-bearers and rights-holders. UNIFEM's Women's Rights to Land in Central Asia Programme is an innovative example of how agencies can support and engage with national processes to further the realisation of human rights. UNIFEM seized the opportunity provided by a regional land reform process to design a programme that would strengthen the capacity and accountability of key actors to ensure women's economic rights and security. The programme

is reflecting best practices in project design, approaches to implementation, and creative collaboration with partners from government and civil society.

Often, field staff fail to use a human rights framework simply because they lack the knowledge to do so. UNIFEM has produced “bridging analysis” that translates human rights conventions into practical programming guidance by providing tools for human rights-based programming.

Linking women’s rights to country processes

The programme combats the growing marginalisation of rural women and seeks government accountability in upholding women’s rights in the land reform process in Kyrgyzstan, Tajikistan and Kazakhstan. The programme is currently at different stages in each of the three countries, reflecting their different conditions: the status of the land reform process, the capacity of implementing partners and political commitment on the part of the respective governments. For example:

Kyrgyzstan

The programme was launched in 2002, in partnership with the Women Entrepreneurs Support Association and local government. Staff have set up training programmes in seven provinces (reaching 80% of local administration) and established commitments to take into account the needs of “the missing” in order to correct the shortcomings of previous work in the land reform process. They have collected and analysed practical cases during the process of drafting amendments to the Land Law, and produced practical manuals of land reform implementation.

Among its successes, the programme has established an efficient monitoring and tracking results system based on a good baseline study, and submitted draft amendments to the existing Land Code and related policies to the relevant government agencies and Parliament of Kyrgyzstan. It has strengthened the capacity of local government officials and staff to better protect women’s rights to land. It has developed partnerships with various stakeholders and increased public understanding about the importance of women’s land rights.

Tajikistan

Following a series of assessments based on fieldwork and legal and policy analysis, participants (members of government, civil society and donor agencies) at a 2002 workshop put forth a series of challenges specific to Tajikistan, in light of the government land reform efforts and the privatisation of a large number of collective farms. This led to the launch of the Land Rights and Economic Security for Rural Women Project, designed to ensure gender equality in access to and use of land for economic initiatives.

This project has already made an impact on policy and legislation. Amendments to the Land Code, policies and legislation, and advocacy for state programmes became law in February 2004. Amendments in relation to women's access to land were incorporated into the government's 2001-10 policy on the equal rights and opportunities of men and women and approved by government. Finally, a new methodology for the disaggregation of land reform data by sex was developed and presented for government endorsement for use in statistical reporting from 2005.

Alongside working to influence policy and legislation, UNIFEM helps local partners to provide legal advice to rural women on land reform issues by, among other things, conducting training workshops at district, village and local government level.

Bridging analysis

In order to provide human rights-based programming tools, UNIFEM produced a bridging analysis to demonstrate how human rights treaties could be used to respond to the violation of women's rights to land. The analysis identifies the Government of Tajikistan's obligations with respect to women's right to land under the treaties to which it is party, and then outlines the measures it should take to meet these obligations to provide possible programme entry points. It identifies four project areas: women's right to land in the land reform process, women's rights and the family, women's access to credit and the impact of stereotypes, and discriminatory customs and religious laws on women's access to land and property.

CIDA's human rights-based approach to child protection

CIDA's *Action Plan on Child Protection* (CIDA, 2001a) explicitly adopts a human rights-based approach in the context of its work with children in need of protection from abuse, exploitation and discrimination. This approach uses the CRC as its guiding framework and in particular the four fundamental principles set out in the CRC for interpreting its articles: the best interests of the child as a primary consideration in all actions concerning children; the right to non-discrimination; the right to life, survival and development; and the right to participation. Within this framework, CIDA has established a strategic focus on child labour and children affected by armed conflict.

In 2003 CIDA undertook a mid-term review of its Action Plan (Rothman, 2003), that reported that capacity development measures had been undertaken in line with the commitments in the Action Plan. Notably, CIDA had established a Child Protection Unit within the Human Rights and Participation Division in Policy Branch, reflecting the emphasis on participation and human rights-based programming. This was supported by a Child Protection Advisors Group drawn from CIDA's programming branches, whose mandate was to support the effective implementation of the Action Plan. The plan has also led to more frequent and comprehensive child rights training (including an increased focus on human rights-based approaches), the establishment of a knowledge network, and the publication of over 30 tools and resources. CIDA has also increased awareness within Canada of children's rights, mainly through the public engagement programme of Lieutenant-General Roméo A. Dallaire, Special Advisor on War-Affected Children to CIDA, and the Minister of International Cooperation.

The review found that the five child protection pilot projects were the "...most tangible and visible manifestation of the effective implementation of the Action Plan". All five of these have included strategies for the participation of children in decision making throughout the project cycle. Whereas some of these projects were rights-based from the outset, others were originally child protection or education projects; subsequent efforts were then made to make them consistent with a human rights-based approach, with a particular focus on child participation. CIDA is currently gathering and systematising the lessons learned from these experimental pilots. In addition to the pilots, CIDA has also funded the participation of children in several major

international conferences, in policy dialogue on issues such as national plans of action for children, and in research.

Box 7.2 Protecting the interests of working children in Egypt

When CIDA reviewed two projects supporting small business development, it found that half of the businesses involved in these projects relied on the labour of children. However, it discovered that child labour often benefited the children and their families.

Launched in March 2002, this project empowers girl and boy participants to identify labour hazards in their workplace, and to design and deliver interventions aimed at improving their working and learning conditions. The creation of a network of child workers to facilitate access to services beyond the project has increased discussion about child labour amongst government, civil-society and private-sector stakeholders. A school loan fund has been set up for families of working children. Despite initial reservations about a human rights-based approach, the Egyptian Government asked to use this project as an example of the approach at a national conference. The National Council on Childhood and Motherhood has asked the project to advise on the development of a participatory, rights-oriented national strategy for children.

The project has been increased by a further three years in recognition that participatory approaches require more time and resources than traditional projects.

Another element of the Action Plan that was anchored in a human rights-based approach was the establishment of a Child Protection Research Fund, designed to provide evidence to support more relevant, inclusive and effective programming. Thirteen projects were funded at a cost of CAD 2 million and the initial findings from these have underlined the importance of contextual research and analysis to human rights-based programming. The first project produced a landmark study on girls' lives during and after war in Northern Uganda, Sierra Leone and Mozambique (McKay and Mazurana, 2004). The study has been used by various UN agencies to train staff and develop standard operating procedures for demobilisation and reintegration programmes. Another project, involving research conducted by young people on the impact of a recent drought in tribal communities of Rajasthan, has led to changes in local government resource allocations for these communities.

In the five years of the Action Plan, CIDA investments in child protection have more than quintupled, from CAD 7.7 million in 2001 to

42.6 million in 2005, and the aim is to maintain the 2005 level in future years. The total investment of CAD 171 million over five years exceeded the cumulative target of 122 million by 40%. However, a mid-term review found some disagreement amongst staff about how much of this increase in child protection programming could be attributed to the Action Plan. Also, while the absolute increase in child protection programming and its impact in terms of innovation and contribution to knowledge were significant, the Action Plan continues to represent a relatively small proportion of total CIDA investments.

Minority rights policies and programmes

In a paper submitted in 2003 to the UN Working Group on Minorities, the Minority Rights Group International (MRG) reviewed donor agencies' support to minorities. It concluded that while some agencies had made progress towards considering indigenous peoples in policy and programming, there had been much less work on other ethnic, religious and linguistic minorities. The group believed that minorities do not have a strong voice to articulate their needs in development, governments do not give enough attention to the situation of minorities (so these are not adequately reflected in poverty reduction strategies) and agencies lack internal capacity to work on minority issues.

The MRG report nevertheless highlighted a number of good initiatives. In the wake of the UN World Conference on Racism, UNDP commissioned a discussion paper from MRG to inform a new policy note, and identified the need for more programming. In order to develop staff capacity, SDC has agreed a three-year backstopping mandate with MRG which includes training staff and developing tools to assess the situation of minorities and promote their participation in SDC programming. In 2002, the Inter-American Development Bank adopted an *Action Plan for Combating Social Exclusion Due to Race or Ethnic Background* (IADB, 2002). It is strengthening its capacity to work on exclusion and racism, and is reaching out to other agencies, such as the EC.

Sida's *Perspectives on Poverty* (Sida, 2002a) is one of the strongest examples of the systematic consideration of minorities among donor agencies. Sida is a strong supporter of MRG and held a workshop on minorities in 2003 for Sida staff and partners. Other agencies do not have explicit policy statements but still fund interventions, such as the European Commission through the EIDHR or DFID.

MRG notes that minority issues are usually considered by donors as part of poverty and social inclusion, human rights and governance, or conflict prevention. Its recommendations for developing donor capacity include greater dialogue between donors and minority representatives, and development of institutional policies to mainstream minority rights and move from policy to practice.

MRG calls upon agencies to review their internal ability to respect non-discrimination and to ensure that aid is delivered in non-discriminatory ways, including through adequate monitoring mechanisms. To increase capacity and understanding, agencies can train and hire minorities. Programming options include: mapping minorities and legal frameworks; including minorities in country strategies; targeting programmes using disaggregated data; enhancing accessibility of donor programmes by using minority languages and culture; adapting participatory processes to enable genuine participation by minorities; advocating in support of minorities when engaging with governments; or building and using minority capacity, such as of local businesses or NGOs in minority regions.

A human rights-based approach to water programming

By demanding rigorous political and social analysis, a human rights-based approach to programme design and implementation can help to prevent interventions that inadvertently reinforce existing conflicts and power imbalances.

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

By involving each ethnic group in the analysis and assessment stage of the project, WaterAid was able to identify each group's different water needs. A participatory assessment and planning methodology

enabled WaterAid to develop an understanding of inter- and intra-group power relations and the wider social context. WaterAid improved understanding among the groups by bringing all project stakeholders into the discussion.

In order to influence national policy and practices, WaterAid developed a coherent advocacy strategy in Tanzania. The strategy included working with and training national government staff responsible for water services and policies. WaterAid analysed the political and legal context in order to see how national policies and legal issues positively and negatively affected the access of these groups. The organisation looked at inequitable distribution of land, and subsequent lack of access to water because of a lack of knowledge of land rights and processes for application on the part of the least powerful.

WaterAid found that considerable time and effort had to be invested in discussions among the Kileto partnership management team, field staff and project communities. Yet it achieved genuine community management of water services by building partnerships with civil society organisations and training them in the planning and implementation of the programme.

Chapter 8

Experiences from the Adoption of Tools

Abstract. *Integrating human rights into development more systematically is an extensive undertaking, calling for innovation and change at various levels. Yet experience suggests that the difference a stronger human rights perspective makes in development and aid practice is often far from self-explanatory. There is therefore a great demand for practical guidance and analytical devices to facilitate understanding of how the human rights/development nexus can be used creatively in a wide variety of settings. This chapter explores how a range of international and bilateral agencies (DFID, NZAID, OHCHR, UNIFEM and UNFPA) have created tools and used them to adopt human rights-based approaches and mainstream human rights into their work. These tools have helped to operationalise a HRBA, provide analysis, facilitate planning and programming, promote culturally sensitive approaches and partnerships, and mobilise the capacity needed to integrate human rights across all aspects of an agency's operations.*

UN Common Country Assessments and Development Assistance Frameworks

In 2004, the OHCHR conducted a review of the United Nations Common Country Assessments (CCAs) and Development Assistance Frameworks (UNDAFs). The review (O'Neill, 2004) found increasing evidence of commitment to a human rights-based approach, with a willingness to put it into practice. In fact, most CCA/UNDAFs explicitly state that human rights form the basis of their analysis and programmes. Most also identify the international human rights treaties ratified by the country. Some also note that national legislation conflicts with certain international obligations and must be changed, while only a few refer to regional human rights treaties and mechanisms.

There is a thorough analysis of the root causes of poverty, highlighting the pernicious effects poverty has on the ability to claim and enjoy rights. Several CCA/UNDAFs do not hesitate to identify lack of political will, rather than lack of resources, expertise or knowledge, as the main impediment to greater enjoyment of human rights. This can lead to more frank exchanges with governments. There is a much more nuanced treatment of participation as a key ingredient to enhancing the capacities of both the rights-holders and duty-bearers (related to the right to information and the obligation of the state to make core information available to its citizens).

The most important and widespread improvement in the CCA/UNDAFs is the thoroughness and clarity of the capacity analyses of both the duty-bearers and the rights-holders. Good discussions of weak state capacity to plan, budget, deliver and assess programmes involving basic public services like education, shelter and healthcare appear in the majority of CCA/UNDAFs reviewed. Likewise, many United Nations country teams dissect the inability of beneficiaries to claim, advocate for and defend their rights, and base programming on addressing this weakness. Strengthening various capacities at all levels – national, regional, local, state and civil society – for effective action to realise rights is a hallmark of the UN's HRBA.

A more ambitious approach to advocacy is evident, including the need to provide civil society with the information and skills to make demands on the state and to build alliances with embassies, international financial institutions and regional organisations (*e.g.* for sensitive issues like racial discrimination and torture). Several CCAs identify the important role that local culture and traditions play in the enjoyment of

rights. They note that much discrimination, especially towards women, begins at home and must be addressed there. The report considers that a continued weakness in the CCA/UNDAFs is the

... failure to exploit the rich vein of jurisprudence and commentary provided by the ever-growing UN human rights treaty-monitoring/reporting system and the exciting work being done by a bevy of Special Rapporteurs and Working Groups on issues central to development like education, healthcare, shelter, poverty and violence against women. (O'Neill, 2004)

The report makes suggestions that would strengthen human rights and development programming. These include having a more fluid understanding of duty-bearer and rights-holder, focusing more on the interaction between them, rather than the label.

The report suggests specifying more clearly the exact nature of the capacity gap of duty-bearers and rights-holders (*e.g.* shortfall in human, financial and logistical resources, lack of knowledge or expertise, failure of political will or interference from the outside). It should be made clear that responsibility entails accountability: documents should show that governments, civil society and other duty-bearers are the true owners and as such are accountable, while the UN "... assists and supports them in meeting their responsibilities". Programmes should be designed to fill the various capacity gaps and highlight how they will identify those accountable for meeting obligations. The report called for a sharper understanding of how UN programmes address power relations in the host country: politically, in the society and even in the family. There should be a greater focus on the primary actors essential to better enjoyment of human rights, and this includes non-state actors like parents, religious leaders, health professionals and teachers. The report suggested reviewing existing accountability mechanisms and indicating how the UN can help states use these accountability mechanisms, by offering assistance to strengthen the state's regulatory and oversight capacity, including judicial reform and access to justice.

The report calls for using the treaty bodies' recommendations and observations, along with those of special rapporteurs and the general comments in designing new programmes. For example, the United Nations Country Team in Uzbekistan, along with key embassies, uses the findings of the Special Rapporteur on Torture to design programmes to achieve practical, measurable results. OHCHR country profiles contain summaries of relevant recommendations from treaty bodies and special rapporteurs/independent experts.

Box 8.1 Treaty body recommendations in CCAs and UNDAFs

The Serbia/Montenegro CCA (2003) noted the readiness and commitment of the government to assume its reporting responsibilities under the six core UN human rights treaties. While highlighting the actions taken to establish inter-ministerial committees to prepare overdue reports, it emphasised the importance of “the extent to which the Government uses this as an opportunity to systematically review its legislation and practice against international standards” and “the readiness of the Government to implement the recommendations of the treaty bodies when the reports are reviewed”.

The Guatemala CCA (2003) identified discrimination as the fundamental problem to tackle, based on the findings of the Special Rapporteur on Indigenous Peoples. It also linked its analysis to the findings of other Special Rapporteurs who visited the country, including the Special Rapporteur on Violence against Women who raised the alarm that there is a systematic tolerance of massive violence against women, regardless of the numerous treaties ratified by the government. The CCA also refers to the findings of the Special Rapporteur on Human Rights Defenders who reported that defenders are specifically targeted in Guatemala and emphasised that without real freedom of expression and association and genuine participation, no progress will be possible. Guatemala UNDAF identified the need to inject the issues of sustainable and equitable development and adherence to human rights into national policy debates as a top priority for UN action in the coming five years.

The Philippines CCA (2003) highlighted a key comment made by the Committee on the Rights of the Child concerning the Philippines’ failure to comply with international standards relating to juvenile justice, especially the use of incarceration to punish rather than rehabilitate. It also identified certain traditional beliefs and practices that tolerate abuse and exploitation of children and cited the ILO Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour as an important tool for government and private sector actors to end this scourge. Use of ILO Conventions in the analysis led to the identification of a variety of duty-bearers.

The Kyrgyzstan CCA (2003) identified that “the rights guaranteed by international instruments are still to move off the page of official documents into people’s lives” and stated that “human rights must be actually be enforced and not just talked about”. The CCA gives an example of a follow-up undertaken by the government in response to the Concluding Observations of the Committee on the Rights of the Child, by establishing the “New Generation” initiative, a co-ordination committee with representation from relevant ministries, NGOs and young people to implement policy changes and to co-ordinate fresh approaches for the realisation of child rights.

Among the report’s specific recommendations:

- Provide training on CCA/UNDAFs before the process begins. Such training needs to emphasise the practical application of human rights jurisprudence in UN development programming and respond to the findings that the first generation of training had too much of a theoretical, legalistic and academic content, and not enough on how to apply international human rights law to real people with real development problems.
- Pay greater attention to all aspects of public finance, to inform greater public spending on children, women, rural populations, the disabled and other marginalised or excluded groups. This includes not only reviewing the proportions of national budgets spent on basic services (*e.g.* to assess whether it is reaching the 20/20 target), but also analysing whether existing budget allocations actually support the requisite “duty-bearing” so that the state can meet its key national priorities.
- Highlight the need for accurate and reliable data in many spheres (*e.g.* demographics, population, literacy, health indicators, government spending, budgets, trade figures and labour statistics). All this data must be properly disaggregated to show any patterns of inequality or discrimination.
- Dedicate a professional human rights officer responsible for insuring that all relevant findings, comments, recommendations and orders generated by the UN and regional human rights mechanisms are considered and included in the United Nations country teams’ work.

A human rights-based approach to achieve the maternal health MDG

In recognition of the centrality of women’s rights to making progress towards MDG 5 on maternal health, DFID commissioned a desk review assessing the relevance of a rights-based approach to maternal mortality (Hawkins *et al.*, 2005). DFID’s Ghana and Bangladesh country programmes were involved in piloting the work. As a result, a “how to” note (DFID, 2005d) provides guidance to DFID advisers and programme managers on operationalising a human rights-based approach to maternal mortality in order to strengthen their analysis, policy and programming.

The note recognises that a HRBA adds value to technical or public-health responses to maternal mortality by directing attention to the

underlying social and political relations that influence maternal health. However, further evidence is needed to increase understanding of the impact of adopting such an approach. Furthermore, it stresses the need for the practical application of a human rights-based approach to be grounded in the local context, including the type of language that is used. Country-specific tools need to be developed to accompany this generic guidance.

Reflecting DFID's *Realising Human Rights for Poor People* (2000a), the note explores how a commitment to the principles of participation, inclusion and fulfilling obligation can strengthen analysis, planning and implementation. It identifies particular areas of work resulting from the application of a human rights-based approach to maternal health.

Box 8.2 Services for the poorest and socially excluded

The Nepal Safer Motherhood Project adopted an “all-inclusive” approach to saving the maximum number of women’s lives. In 2004, a study measuring use of emergency obstetric care found that the principal uses of services were high-caste Brahmin/Chettri women. In one district, the rate of use per 1 000 population was over four times greater for higher-caste women than for all other women. This has drawn attention to the need to target resources so that lower-caste and excluded ethnic groups can use emergency obstetric care services at the same rate as that attained by the Brahmin/Chettri women, both to save maximum lives and to be truly inclusive. The cost of providing services for the poorest and socially excluded will be higher than for the more accessible, high-caste women. This calls for difficult political choices. It also highlights the need to monitor who benefits.

Strengthening policy and political support

Political support for, and ownership of, the prioritisation of maternal health is essential; human rights can provide an entry point. They can be used in dialogue and advocacy to strengthen the commitment to maternal health in national development policies, as a starting point for the implementation of international human rights obligations.

Both government and civil society will need to be engaged to ensure the mix of aid instruments required to integrate a rights perspective into maternal mortality, including dialogue, budget support, and NGO and multilateral funding.

Applying a rights perspective

A rights perspective focuses attention on inequality in the health sector and can provide a powerful advocacy tool for the reallocation of resources needed to fight discrimination. It can also improve the quality of, and access to, health services by strengthening accountability and standards.

The law can be used to improve maternal health policy and practice at both the international and national levels. Actors can engage with the international treaty-monitoring bodies to encourage government compliance with their human rights obligations and, at national level, work with governments to ensure constitutional commitments are implemented and that legislation and policies are congruent with human rights standards and principles.

It is important to increase women's knowledge about their rights but this should be done in a context-specific manner and accompanied by support for social mobilisation and community-managed support systems if it is to have a positive impact on behaviour.

Box 8.3 Impact of abortion law on maternal mortality in Romania

Legislation can save women from unsafe abortion. Restrictive abortion laws were passed in Romania in 1966. There was a dramatic rise in maternal mortality ratios, from around 80 deaths per 100 000 live births in 1964 to 180 in 1988. After the repeal of these laws in 1989, the maternal mortality ratio fell to around 40 deaths per 100 000 live births in 1992. This fall owed almost entirely to fewer deaths from abortion.

UNFPA's culturally sensitive health programming

As a result of a review in 2002 of how its country offices were using rights-based approaches, UNFPA realised that the scope of its activities varied among regions. Staff identified the perceived conflict with local culture or religion in some countries as a major obstacle to engaging with human rights. As a result, UNFPA created a Gender, Culture and Human Rights Branch that reviewed culturally sensitive programming approaches and partnerships with religious and faith-based organisations.

The review resulted in the publication *Culture Matters* (UNFPA, 2004b). It explores the contribution of culturally sensitive approaches and partnerships with local power structures to the effective implementation of rights-based population and development programmes. It is important to make clear the distinction between “cultures as broad ethnical and value systems” and certain “traditional practices” that are harmful in the individual and the community.

The report found that both constraints and entry points to rights-based programming resulting from socio-cultural structures cannot be underestimated. Serious engagements with cultural factors lead to more effective outcomes. Building bridges between universal rights and local cultural and ethical values helps individuals and communities to understand and advocate universal rights standards. Culturally sensitive language is an invaluable negotiating and programming tool.

Research highlighted the fact that collaboration with local power structures and institutions, including faith-based and religious organisations, is instrumental in neutralising resistance and creating local ownership of reproductive health and rights. Owing to the proliferation of members of such organisations throughout the public services – including political leaders, policy makers, health professionals, teachers – engaging with them has meant that UNFPA has been able to mainstream reproductive health concerns and services into many of these networks. However, participatory approaches must be adapted to the local context. It may be necessary to engage with leaders of local power structures before involving grassroots communities in project design and implementation.

Projects that are likely to lead to cultural or religious controversy must be preceded by strong advocacy campaigns. Religious organisations were willing to partner with UNFPA in a number of areas: those partnerships were strengthened when it became clear that both sides working together addressed the needs and the rights of communities they both serve. In Muslim contexts, using Islamic sources in advocacy campaigns has facilitated project ownership.

Country offices developed strong in-house capacity to manage diversity and bring together various interests. They have been effective facilitators of change where there were challenges on sensitive issues. The identification of, and support to, local change actors has been central to this. The lessons learned by UNFPA in the areas of reproductive rights

and health could serve as a starting point for culturally sensitive programming in other areas of human rights.

Box 8.4 The Literacy Movement Organisation project in Iran

The Reproductive Health/Family Life Education Advocacy project (known as the “Literacy Movement Organisation” project) integrates population and reproductive health messages into literacy classes at all levels in four provinces in Iran. The Literacy Movement Organisation is affiliated with the Ministry of Education and has around 50 000 instructors working throughout the country to provide a basic literacy programme.

UNFPA has provided support for the integration of population education into the Government of Iran’s literacy programme since 1992. The current project provides advocacy on issues such as health, family life, gender equality, women’s empowerment and male participation.

UNIFEM’s guide to results-based management

Most practitioners are able to identify the ways in which human rights are relevant to particular areas of their work. It is far more challenging, however, to understand the implications of adopting a human rights-based approach for the entire programming cycle. UNIFEM’s guide to results-based management from a human rights perspective (UNIFEM, 2005a) can help in this process.

As a result of the explicit adoption of a human rights-based approach in its main planning tool (the Multi-Year Funding Framework 2004-07), UNIFEM was one of the first agencies to produce a guide to results-based management from a human rights perspective, that is, by developing and measuring results based on the difference they make to the ability of all women to realise their human rights. This new entry-level guide, which is supported by three online training modules, helps UNIFEM staff to plan, implement, assess and report on their programmes using results-based management premised on a human rights perspective. (CEDAW is the source of indicators.)

UNIFEM’s Multi-Year Funding Framework establishes the broad framework of what the agency expects to achieve within the given timeframe, by providing a direct link between international human rights commitments to UNIFEM’s daily work. The central focus of the results-

based management system is to support the capacity of rights-holders and duty-bearers. Crucially, UNIFEM recognises that adopting a human rights-based approach has implications for the way it works as well as what it actually does and thus advocates that, rather than being a technical exercise, results-based management should be empowering and embody the kinds of participatory planning and change that UNIFEM wants to see in society in general.

Within this framework, the guide outlines how capacity development, human rights standards and participatory processes can be applied to the various stages of the programming cycle:

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

NZAID's Human Rights Policy Implementation Plan

NZAID's "Human Rights Policy Implementation Plan of Action 2004-09" (NZAID, 2004) sets out a process and time frame to integrate human rights into all aspects of its operations: its practices and organisational culture as well as policies, strategies and programming. It is focused on steps to be taken within the agency which will then enable NZAID's policy to be reflected in its external activities. The plan describes activities and assigns responsibility to individuals and teams, with performance indicators.

The plan recognises that integration is time- and resource-intensive, and that it will take several years to achieve. It proposes to review the human rights plan of action after five years. NZAID must report to ministers on the implications and longer-term options of moving towards a rights-based approach to development.

Organisational capacity

In terms of organisational capacity, the aim is to ensure that NZAID has the capacity to identify whether, when and how human rights are being integrated across the agency. Areas for action include:

- Adequate resourcing to support integration of human rights, providing access to country-specific information to staff on country status related to human rights instruments.
- Data capture and accessibility by identifying and incorporating appropriate markers for a new agency database to allow monitoring and reporting of issue-specific activity and issue-integrated activity. (Also, monitoring the database to see if markers and procedures are being used effectively.)
- Cross-agency learning, for example by developing effective mechanisms to ensure regular exchange of experience on implementation of human rights policy (*e.g.* programme information, experience and lessons) across NZAID.
- Training for NZAID staff in Wellington and at post (covering human rights issues and principles; planning for implementation at agency, group and individual levels; and identifying expectations on all staff to implement policy).

Organisational culture

NZAID aims to transform its organisational culture so that its language, attitudes and behaviours are consistent with human rights principles. This will be ensured by applying human rights obligations and principles as part of NZAID's Walking the Talk/Wananga process as well as by creating a process for responding to staff concerns about human rights abuses within the agency or in partner countries. NZAID will develop appropriate human-rights specific questions for inclusion in all staff recruitment processes; require an appropriate level of awareness of human rights issues and principles in all consultancy selection processes; include human rights markers in financial and management

procedures; revise contracting procedures for coherence with human rights policy; and refer to human rights issues in relevant communications.

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Annex

The Human Rights-Based Approach to Development Co-operation – Towards a Common Understanding among UN Agencies

Introduction

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

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

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

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

Common Understanding

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

1. ALL PROGRAMMES OF DEVELOPMENT COOPERATION, POLICIES AND TECHNICAL ASSISTANCE SHOULD FURTHER THE REALISATION OF HUMAN RIGHTS AS LAID DOWN IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND OTHER INTERNATIONAL HUMAN RIGHTS INSTRUMENTS.

A set of programme activities that only incidentally contributes to the realization of human rights does not necessarily constitute a human rights-based approach to programming. In a human rights-based approach to programming and development cooperation, the aim of all activities is to contribute directly to the realization of one or several human rights.

2. HUMAN RIGHTS STANDARDS CONTAINED IN, AND PRINCIPLES DERIVED FROM, THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND OTHER INTERNATIONAL HUMAN RIGHTS INSTRUMENTS GUIDE ALL DEVELOPMENT COOPERATION AND PROGRAMMING IN ALL SECTORS AND IN ALL PHASES OF THE PROGRAMMING PROCESS.

Human Rights principles guide programming in all sectors, such as: health, education, governance, nutrition, water and sanitation, HIV/AIDS, employment and labour relations and social and economic security. This includes all development cooperation directed towards the achievement of the Millennium Development Goals and the Millennium

Declaration. Consequently, human rights standards and principles guide both the Common Country Assessment and the UN Development Assistance Framework.

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

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

- **Universality and inalienability:** Human rights are universal and inalienable. All people everywhere in the world are entitled to them. The human person in whom they inhere cannot voluntarily give them up. Nor can others take them away from him or her. As stated in Article 1 of the UDHR, “All human beings are born free and equal in dignity and rights”.
- **Indivisibility:** Human rights are indivisible. Whether of a civil, cultural, economic, political or social nature, they are all inherent to the dignity of every human person. Consequently, they all have equal status as rights, and cannot be ranked, a priori, in a hierarchical order.
- **Interdependence and inter-relatedness:** The realization of one right often depends, wholly or in part, upon the realization of others. For instance, realization of the right to health may depend, in certain circumstances, on realization of the right to education or of the right to information.
- **Equality and non-discrimination:** All individuals are equal as human beings and by virtue of the inherent dignity of each human person. All human beings are entitled to their human rights without discrimination of any kind, such as race, colour, sex, ethnicity, age, language, religion, political or other opinion, national or social origin, disability, property, birth or other status as explained by the human rights treaty bodies.
- **Participation and inclusion:** Every person and all peoples are entitled to active, free and meaningful participation in, contribution to, and enjoyment of civil, economic, social, cultural

and political development in which human rights and fundamental freedoms can be realized.

- Accountability and rule of law: States and other duty-bearers are answerable for the observance of human rights. In this regard, they have to comply with the legal norms and standards enshrined in human rights instruments. Where they fail to do so, aggrieved rights-holders are entitled to institute proceedings for appropriate redress before a competent court or other adjudicator in accordance with the rules and procedures provided by law.

3. PROGRAMMES OF DEVELOPMENT COOPERATION CONTRIBUTE TO THE DEVELOPMENT OF THE CAPACITIES OF DUTY-BEARERS TO MEET THEIR OBLIGATIONS AND OF “RIGHTS-HOLDERS” TO CLAIM THEIR RIGHTS.

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

Implications of a human rights-based approach to development programming of UN agencies

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

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

- Assessment and analysis in order to identify the human rights claims of rights-holders and the corresponding human rights obligations of duty-bearers as well as the immediate, underlying, and structural causes of the non-realization of rights.
- Programmes assess the capacity of rights-holders to claim their rights and of duty-bearers to fulfil their obligations. They then develop strategies to build these capacities.

- Programmes monitor and evaluate both outcomes and processes guided by human rights standards and principles.
- Programming is informed by the recommendations of international human rights bodies and mechanisms.

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

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

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