Human Flourishing Project
Briefing Paper 4
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Governance For Human Flourishing

Abstract

This paper outlines a framework for approaching issues of governance and power from a human flourishing perspective and applies it to UK policies on overseas development. For governance to contribute to human flourishing it needs to be based on the three core principles of participation, service and social justice, all of which interact in a mutually reinforcing manner. Participation seeks for all people to be active agents in decisions that affect their lives, engaging in ways that recognise and celebrate diversity, based on trust and orientated towards a common purpose. The role of organised civil society is an essential vehicle for this. Service requires institutions and individuals to place their power at the service of the wider community and society, in a transparent and accountable way, with decisions made at the most appropriate level by those who are affected. It also requires that governments show leadership and are responsive to the needs of the population. Social justice means that policies are geared towards benefitting the most vulnerable sectors of society, those who have traditionally been excluded. The specific areas of governance to which this framework is then applied are: a) bilateral implementation of UK policies towards developing countries, b) governance of transnational corporations c) tackling corruption and d) governance of intergovernmental institutions. Finally the paper concludes with some policy recommendations.

1. Introduction

Governance is about who has power and how that power is used. It is about how decisions are made and implemented at all levels, about who is included and who is excluded. It is a relational concept, concerning the interaction of people and groups, as well as functional

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concept to do with formal and informal institutions and systems. The UNDP defines it as "the system of values, policies and institutions by which a society manages its economic, political and social affairs through interactions within and among the state, civil society and private sector."[2]

It affects us all, but poor governance affects those who are already excluded to a greater extent. It can perpetuate situations of poverty, inequality and injustice. Any serious attempt to address poverty needs to focus on issues of governance and power.

Governance arrangements determine how resources are used and distributed. A good use of resources can enable everyone to have access to better services such as education and health care, to focus government action on important development priorities and to facilitate social cohesion and the inclusion of all groups in decision-making. Conversely, bad governance can exacerbate social conflicts, waste natural and financial resources through corruption and inappropriate policies, and further marginalise already vulnerable populations. It can discourage international investment as most companies will look for a stable political regime and predictable legal system.

The state, traditionally the focus of governance, can no longer be considered as the only actor, as power relations have been transformed and power is now shared between national, regional and global authorities.[3] These range from inter-governmental organisations such as the United Nations (UN) and the International Monetary Fund (IMF), through global businesses such as Transnational Corporations (TNCs), to multi-stakeholder fora such as the Global Fund on HIV/AIDS or the G8/G20. For powerful countries these global arrangements can mean a further extension of state power, but for many developing countries it can in practice mean losing power to other players.

The emphasis of governance has shifted from institutions to politics and power relations, so that on a global level the more "informal" meetings, such as Davos, that lack the formal institutional structures of other inter-governmental institutions, are gaining increasing importance, particularly in terms of deciding economic and trade policies. This was highlighted by the G20 response to the global economic crisis that largely sidelined the UN involvement in addressing the situation. The role of TNCs is also changing as they have increasing influence on the governments where they are registered or where they are operating, for example over taxation, environmental or social policies. This can mean that states and markets that were traditionally seen as two powers that were balancing each

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[2] See UNDP, "Governance Indicators: A Users' Guide" at http://www.undp.org/governance/docs/policy-guide-IndicatorsUserGuide.pdf

[3] Jan Aart Scholte, *Civil Society and Democracy in Global Governance*, Global Governance 8:281-304 (2002).

other out are now in many cases committed to the same project.[4] This threatens to reduce the political space for other actors to participate in governance decisions.

The nature of the challenges has also changed and it is clear that individual states working alone cannot resolve many of the global issues, such as climate change, trade in minerals, the drugs trade or HIV/AIDS. TNCs and intergovernmental organisations have an important role in participating in finding solutions to these problems. Social relations transcend territorial geography and civil society has mobilised around global issues, such as debt relief or climate change, and is increasingly seeking to participate in governance decisions at all levels.

Added to these general governance challenges there are the specific situations in many of the poorest countries that are experiencing conflict, where functional democracy and rule of law have broken down[5]. Conflict destroys social and physical infrastructure and severely restricts any initiatives to overcome poverty, for example children will often not attend school and medical supplies will not enter the country or will not reach the most remote areas. Where the government doesn't have effective control over the whole territory, there is an increased militarization of certain zones in order to protect natural resource extraction, usually to the detriment of all but a few within the local population.[6]

Finally, there is the changing geopolitical situation with the rise of China, as well as Brazil, India and Russia, as economic and political powers. Over the past few years many Chinese companies in particular have targeted their investment in countries with poor human rights records, such as Zimbabwe, Sudan and Nigeria, showing little concern for democracy and human rights in the process. This threatens to undermine global efforts to strengthen governance and to achieve certain minimum standards for companies, even if the progress so far in this area has been at best patchy.

2. Human flourishing as a policy narrative

Before moving on to consider in some of the current governance challenges in more detail, we outline a human flourishing framework which we will use to address these issues. What it means to flourish as human beings, made in the image of God, has been summarised as "to live in such a way as to exercise our human gifts of creativity and productivity in order that

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[4] William Cavanaugh, *Theopolitical Imagination* (Continuum/T & T Clark, 2002).
[5] Paul Collier, *The Bottom Billion, Why the Poor Countries are Failing and What Can be Done About it* (Oxford University Press, 2008).
[6] Ibid.

we may participate in and contribute fully towards our common life".[7] We cannot flourish alone and the relational aspect of our human identity is closely linked to our responsibility towards others. It is therefore clear that social and political systems are inadequate in themselves to the task of achieving full human flourishing, but do nevertheless play an essential role.

This human flourishing framework, when applied to governance and power (what is referred to in this paper as "governance for human flourishing") earths itself in three inextricably linked principles, namely: participation, service and social justice. All three are central to any considerations of governance for human flourishing, and need to be held in balance.

Participation is the principle that every person should participate in decisions that affect their lives. People are creative and productive beings,[8] with particular roles and responsibilities, stewards of God's creation with a mandate to rule over it responsibly. Participation, directly or through different communities, groups or networks, allows each person to take responsibility for their own lives and future. It recognises each person's dignity and abilities, and the contribution they can make to society through informal as well as formal relationships and structures. In many cultures the ability of women to participate and hold power is considerably restricted therefore special effort needs to be made to overcome these barriers and achieve gender equality.

Each person should be free to participate in society in a way that reflects their identity, context and complex web of social relations.[9] This should be based on people's rootedness in a particular society or place, but also recognises and celebrates their unique identities and expressions of culture and values. Respect and tolerance is not based on removing identity from the public sphere, but on recognising and celebrating it.[10]

Policy–making is essentially relational and based on solidarity with others, seeking to build trust and a common vision for a better society, through partnership as opposed to competition. We cannot flourish alone, but through participation in wider society we can show responsibility and solidarity towards others and contribute generously to the common good. This requires a special concern for the most vulnerable sectors of society,[11]

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[7] Nick Spencer, *A Christian Vision of Human Flourishing*, (Theos, 2010) p. 18.
[8] Ibid pp. 6-7.
[9] Celia Deane-Drummond, *Why Human Flourishing? A Theological Comment*, (CAFOD, 2010) p. 6.
[10] Michael Sandel, *Justice: What's the Right thing to do?* (Allen Lane, 2009) p. 243.
[11] Ibid pp.10-11.

recognising that they often have extra barriers to participation in terms of time, resources and access, therefore special efforts need to be made for their voices to be heard.

Participation in decisions that affect people's lives can help to improve policies and programmes, as those affected can have direct input into the planning and execution of government actions that will have a direct impact on them. It will enable the government to learn from the impacts of previous policies and programmes and will facilitate the development of effective strategies so that the whole population can benefit. It can also allow the input from non-governmental groups, such as NGOs or academic institutions that have developed expertise in particular fields.

However, participation by itself is not enough for governance to work for the poor, because those who hold the power still decide who can participate and under what conditions, and ultimately will have the responsibility for the final decisions and their implementation. There are situations when participation can lead to co-option and disempowerment. Therefore government itself needs to be clear about its own mandate, which is to serve the people, be responsive to their needs and pay particular attention to the most vulnerable members of the population.

Service is based on the idea of government as being for the good of the people, not just for the good of those in power. Paul writes in his letter to the Romans that government is "God's servant, to do you good".[12] So governments have a dual responsibility, firstly to God as the authority is from Him and they are ruling over His world, and secondly to its citizens. This involves the correct use of power, using the power vested in the authorities for the good of the people, what is frequently referred to in Catholic Social teaching as for the Common Good.[13]

The recognition of human vulnerability[14] and the disparity in power relations and standards of living within any given society means that the state has a role to ensure that certain minimum standards are achievable for all. As well as encouraging participation, as mentioned above, this means that any government will need to ensure the provision of adequate public services for all, such as health, education, housing, water and sanitation. Government therefore needs to be responsive to the needs of the population, based on the resources available. Continuing with Paul's letter to the Romans, we see that: "this is also

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[12] Romans 13.4.

[13] Clifford Longley, "Government and the Common Good" in Nick Spencer and Jonathan Chaplin, eds, *God and Government*, (London: SPCK, 2008) pp. 159-179.

[14] Deane-Drummond, op cit. p. 11.

why you pay taxes, for the authorities are God's servants, who give their full time to governing."[15] So taxation is an essential tool of government policy to make sure that there is a fairer distribution of the resources so that they can be used for the benefit of all, in order that the society as a whole can flourish.

Governance as service also means that states need to show strong leadership and orientate their own policies and programmes, as well as those of other actors, towards human flourishing. This involves an important regulatory role, for example of businesses, so that they increase their economic and social benefits to the local populations and minimise any potential negative environmental impacts. It means that there are functions that the state cannot simply delegate to the market, for example developing national policies to address poverty or combat climate change. In the Climate Summit in Copenhagen in December 2009 there were high expectations that the governments would face up to their responsibilities to address climate change, but the disappointing result was a failure to take this responsibility seriously enough and respond to the needs of the global population.

Accountability and transparency for the use of resources and power are also important: accountability to the people for whose benefit the government exists and transparency to allow access to information for all citizens. This can guard against the concentration and misuse of power. It will involve mechanisms that allow citizens as well as other institutions, such as ombudspersons offices, Parliament and independent commissions, to hold the government to account for its actions in a transparent and public way.

Inherent in the idea of service as it relates to governance is the biblical concept of *kenosis* or kenotic power, coming from a Greek term meaning self emptying. It is based on the relationship within the Trinity and is demonstrated through power that is emptied or poured out for the benefit of others. This is power at the service of others, not power for its own sake. Jesus did not seek to gain power, but emptied himself of all of his power as he came to serve and to give his life so that others may live.[16] From that situation He then challenged the use and abuse of power by all of the authorities of his day, calling them to use power for the good of the people.

Government also needs to be understood as limited, which has been expressed through the ideas of subsidiarity and multipolarity.[17] Subsidiarity doesn't necessarily mean small government, but that "decisions in the public sector affecting the lives of ordinary people

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[15] Romans 13.6.
[16] Philippians 2.5-11.
[17] See Briefing Paper 2 in this series.

should be made as close to those lives as possible".[18] This will involve power sharing; a process that frees up government at all levels to respond to the needs of the people it is serving. At one level this will involve decentralising power to a more local level where there will be greater opportunities for those in power to be responsive and accountable to citizens, as well as greater opportunities for participation. This will include what the Latin American Bishops Conference has called "democratic education... where the community progressively becomes architects of their own formation and their own development".[19] At another level it will involve the pooling of sovereignty to tackle some of the global issues, such as climate change and a willingness to consider human flourishing, at a global level.

The multi-polar nature of governance recognises power as diffuse and shared among different actors, such as through parallel "official" and "traditional" legal systems in many African, Asian and Latin American Countries. One is not necessarily subservient to the other, but both operate within their different ambits. This means that the state authorities are responsible for state affairs and that communal or family affairs can be governed in a different way by the most appropriate institutions and norms.

Social justice is based on the idea that human flourishing is not a simple aggregate sum of the greatest good for the greatest number of people, but involves the inclusion of all members of society with a particular emphasis on the most vulnerable or those who are suffering injustice, such as the "poor, widows, aliens and orphans" who are singled out for special treatment in the Old Testament. The most vulnerable groups should therefore be given a special emphasis in policy-making, with particular efforts to include them both as agents and as beneficiaries.

This concern for the excluded sectors of society demands what one author has called "institutionalised grace",[20] mechanisms within society that require "structural change at regular intervals to equalize the disparities that would otherwise run rampant". It is based on the Old Testament idea of Jubilee[21] when every seven years (Sabbath) or fifty years (Jubilee) people's debts were forgiven, land returned and slaves were freed so that every person and family would have all that they needed. It was to ensure that no group or person had power or control over others through the concentration of wealth (particularly land) or power, through unfair labour relations or through economic dependency.

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[18] Longley, op cit. p. 167.
[19] Latin American Bishops' Conference – Department of Justice and Solidarity (2010), *Economic Crisis, Option for the poor and care for creation: For an integral human development based on solidarity*, para 17.
[20] Donald Kraybill, *The Upside Down Kingdom* (Scottdale, Pennsylvania: Herald Press, 1978) pp. 98-99.
[21] Leviticus25.1-55.

In a globalised world, this principle of Jubilee[22] justice needs to be applied not only at a local and national level, but also at an international level and does not simply mean giving more aid, but also reforming the very systems and structures that are causing the poverty or injustice in the first place, to place them at the service of the poorest populations, such as debt cancellation or reform of the IMF to allow greater participation of developing countries in decision-making and so that the policies are more geared towards sustainable development and poverty alleviation.

Furthermore, the same teaching on the Jubilee principle shows that this institutionalised justice doesn't absolve each one of us of our responsibility to place justice at the centre of our personal relationships, as well as to promote a generous society. It is ultimately a relational concept that seeks to restore relationships that have been damaged through injustice or through inequalities in wealth and power. God's Jubilee call is also a call to be generous and to develop a generous society that knows how to recognise its blessings and have compassion for those who, for whatever reason, are in a worse off situation. It demands a willingness to put the needs of others first, especially when that may require sacrifice on our part, as Pope Benedict affirms in Caritas in Veritate:[23]

> "The logic of gift does not exclude justice, nor does it merely sit alongside it as a second element added from without ... economic, social and political development, if it is to be authentically human, needs to make room for the principle of gratuitousness as an expression of fraternity."

Governments should therefore act out of a principle of solidarity, which extends to a global solidarity that is willing to put global interests before national interests. We cannot consider that we live in a flourishing society or flourishing world if large sectors of the population live in poverty. We cannot flourish in isolation, or at the expense of others.

3. Governance for human flourishing and UK policies on overseas development

We now move to addressing how the idea of governance for human flourishing could be applied to the UK's policies on international development. The four broad areas that are considered are: a) bilateral implementation of UK policies towards developing countries, b)

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[22] The Jubilee 2000 Campaign to cancel debts of the world's poorest countries was inspired by this teaching.
[23] *Caritas in Veritate, #34*, quoted in Austen Ivereigh, *Building Civil Society* (Jesuit Media Initiatives, 2009).

governance of transnational corporations c) tackling corruption and d) governance of intergovernmental institutions.

3.1 Bilateral implementation of UK development policy

The UK is an international leader in overseas development policy, having significant influence both within the EU and intergovernmental organisations. Faced with budget pressures and other institutional pressures, it is important to ensure that this good practice continues, whilst also considering how the UK government's approach to governance in developing countries can be more oriented towards human flourishing.

Partnership to strengthen developing country ownership and accountability
Development aid has brought many benefits to poor countries and needs to continue to be a central component of the UK government's policies towards the world's poorest countries. However, for aid to be effective it needs to be based on a partnership approach that seeks parity in power relations between donor and recipient governments and the involvement of all actors. The 2005 Paris Declaration on Aid Effectiveness[24] outlined various core principles for aid effectiveness which would fit in with a partnership approach, including ownership by the recipient governments, aligning donor support to developing country strategies and mutual accountability.

A partnership approach doesn't mean that donor governments don't or indeed shouldn't have any views or policies about governance issues in developing countries, on the contrary, the three principles of participation, service and social justice that are at the heart of a human flourishing approach to governance should be at the centre of all deliberations. But it does mean that conditions shouldn't be imposed on recipient countries by donors as this undermines the democratic role of the government in determining its own development priorities.

It is likely that a partnership approach will involve orientating funding towards support for national development programmes that allow developing countries to determine their own programmes and strategies. One way of doing this is through either general budget support (support that is not earmarked for a specific sector of government spending) or sectoral budget support (support earmarked for use in a specific sector or budget line, e.g. health, education, water and sanitation). According to the UK Aid Network, this provides:

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[24] http://www.oecd.org/dataoecd/11/41/34428351.pdf. This was then strengthened in 2008 through the Accra Agenda for Action.

> "The most significant potential for building and sustaining country ownership and institutions, delivering mass increases in development spending and encouraging donors to work together."[25]

Research has shown that budget support has contributed to many more children going to school and more people gaining access to health services, for example in Rwanda it has helped the government to increase expenditure in health and the use of health services has nearly doubled as a result. Accompanied by capacity building and institutional support, it has also helped to increase government accountability, transparency and institutionality.[26]

Very little aid is currently delivered in this way (5-10% globally) although DFID is doing much better with 27% of its total bilateral aid and 39% of its bilateral aid to sub-Saharan Africa delivered in this way in 2008-9.[27] More of DFID's bilateral aid programme needs to be targeted towards this long-term partnership approach based on budget support and national development plans.

It is likely that any sectoral budget support would initially need to be more targeted towards the priority sectors such as health, education, water and sanitation, and would be coupled with a strong emphasis on building up the institutional capacity of the recipient government, which will include actions to strengthen accountability and transparency as well as establishing clear mechanisms for civil society participation. The Conservative Party has said that in all budget support countries they will commit to giving 5 per cent of overall funding to parliamentary and civil society accountability strengthening. This is welcome and needs to focus on building local civil society that has strong representational links to poor people at grassroots levels.

Relational policy-making

Partnership will involve long-term commitments from the UK to any country in which they are working and the development of policies in a relational manner that can encourage the building of trust. However, this partnership shouldn't be restricted to the national government and those national organisations based in the capital cities. It is necessary to have both national meetings where different groups can come together and work towards common proposals, but also to travel to the rural areas or marginal urban areas where the statistics have faces and are manifested in the lives of real people with everyday struggles. Often

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[25] UK Aid Network (2010), *The case for budget support, country-owned and more predictable aid*), UKAN Policy Paper.
[26] Ibid.
[27] DFID (2009), *Department for International Development – Annual Report*, DFID.

these are the very people who are the most vulnerable and whose voices are least heard. Special effort needs to be made both to understand their realities and to facilitate their participation, particularly addressing the experiences and needs of women.

A lesson can be learned from the Reality Check immersion initiative by the Swedish Embassy in Bangladesh where in 2007 they commissioned a 5 year longitudinal study with the aim of "Listening to, trying to understand and convey poor people's reality". This involves a team spending minimum four nights and five days in the home of a person living in poverty, allowing them to spend time with a family and hear other voices that are normally excluded, such as elderly, young or those with disabilities. The team is able to experience a household perspective and go more in-depth with the analysis through informal communication channels as opposed to formal meetings.[28]

This type of immersion-based policy-making may demand more time and resources, as well as a willingness to enter into the shoes of the other person and to actively listen. It can be a very useful complementary approach and will enable more realistic policies to be developed as well as reinforcing a sense of solidarity and service by the government officials involved. However, participation in donor government policy-making is only one small aspect of people's wider participation in decisions that affect their lives. Civil society participation in policy-making and holding those in power to account is essential if governance is to contribute to human flourishing.

Strengthening the role of civil society organisations

In order for poor people to be able to participate in decisions that affect their lives, a strong civil society is necessary. While it is true that civil society organisations (CSOs) are not automatically positive forces for change in society (there are occasions where they can support the status quo, are fronts for businesses or governments and may have their own issues of accountability and legitimacy)[29], CSOs at their best are a vital component of any functioning democracy, as outlined below. However, for this to be possible there needs to be a civil society with sufficient capacity for engagement at all levels of society, and independent of government control and funding. Therefore strengthening civil society should be a central component of donor policies.

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[28] Dee Jupp, *Privileging Citizens' Voice over Noise: Reality Checks and its implication in Bangladesh* (INTRAC, 2008).

[29] These issues of accountability and transparency are increasingly being addressed, for example, the Humanitarian Accountability Partnership http://www.hapinternational.org/ where NGOs in humanitarian sector sign up to global standards on accountability and quality management. Also CSO accountability toolkits have been developed by organisations in Uganda, Belize, India and the pacific region. See http://www.oneworldtrust.org/index.php?option=com_content&view=article&id=83&Itemid=70.

Firstly CSOs can act as bridges between the national or local government and the most vulnerable populations, helping to organise them and to ensure that these populations are included in policy-making and government programmes. Reaching the local population can be difficult for government officials due to different barriers such as lack of trust and limited experience of these groups in government processes. It is therefore essential for these officials to work closely with other local civil society groups that have long-term well-established relationships with vulnerable and marginalised groups or with umbrella organisations or federations that represent them. An example of this is the Pastoralist Forum Ethiopia (PFE), a local consortium that raises the issue of pastoralists in national debates as their way and livelihood system are otherwise often ignored in policy options. In the lead up to the first Poverty Reduction Strategy Paper (PRSP) pastoralism was not being considered as an issue. PFE consulted pastoralists in all pastoral regions and partners and raised their perspectives and particular needs in the PRSP process, which resulted in the inclusion of a chapter on pastoralism in the final document in the first and second phases of the PRSP.[30]

Secondly, particularly in situations of conflict, civil society organisations can act as mediators and peace builders. Many NGOs also implement training and formal mediation through Alternative Methods for Conflict Resolution that can reduce or prevent local conflicts, for example over land, as well as reduce the burden of cases that pass through the formal state judicial system. For example, in Liberia, the women's movement played an important role in convincing President Charles Taylor and rebel leaders to attend peace talks in Accra in 2003, as well as in pushing for a positive conclusion to those talks and in monitoring the implementation of the Comprehensive Peace Agreement that all parties signed.[31] This contributed to the election of Africa's first female president in 2005 and a significant role for women post-conflict reconstruction. The women were able to do this through not only the national connections they had but the international networks that characterise so many CSOs.

Thirdly, in many countries, particularly failed states, CSOs also have a strategic role to play in the rebuilding of accountable and democratic public institutions that will then be able to be more responsive to the needs of the people, as recognised by DFID:

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[30] Pastoralist Forum Ethiopia (PFE), a local consortium of residential and foreign charitable organisations, is working with pastoralists and partners for sustainable pastoral development in Ethiopia and represents the collective voice of its members. PFE is a legally registered Consortium by Charities and Societies Agency in Ethiopia with Certificate #1354.

[31] Erika K. Sewell, 'Women Building Peace: The Liberian Women's Peace Movement', *Critical half, Bi-annual Journal of Women for Women International*, 5:2, (2007) pp. 14-20.

> "Capable, accountable and responsive states are critical for development. Yet many of the challenges cannot be solved through state action alone. In fragile countries, alternative mechanisms and deeper partnerships with civil society organisations and faith groups are needed to reach the poorest people where an effective state does not exist, for helping to build institutions and for holding those institutions to account."[32]

Fourthly, it is important to recognise that through CSOs people come together not as isolated individuals but groups with a shared identity, values and purpose, who can then represent their members in the public arena. Here faith based organisations (FBOs) play an important role, particularly in developing countries, as people's faith is very closely related to their values and motivations, their family relations and social organisation, and the ability to mobilise and organise to tackle common problems. It allows participation based on identity and common values that are based on human flourishing model of participation, service and social justice. For example, In Mozambique's Gondola district antiretrovirals (ARVs) are now available free of charge, but it's still a challenge for people living with HIV to come to clinics. Christian NGO Kubatsirana has trained church volunteers to work with people living with HIV to tackle the stigma. They are also medically trained to make home visits to check the ARVs are being taken and to deal with potentially fatal secondary infections. Volunteers also help with household chores and take people to the clinics to pick up their ARVs.

The distinctive and important role of FBOs has recently been recognised emphasised by DFID, with a commitment to develop broader and deeper partnerships with these organisations in order to reach the poorest people, as well as to double their funding by 2013.[33] This commitment is welcome, and needs to be followed up with concrete actions, like the development of detailed guidelines about how to engage with FBOs, recognising their distinctive nature.

Policy focus on the most vulnerable

It is now increasingly common for investment programmes to have to show how the money will produce the best rate of return per person. Experts in econometrics are brought in for the number-crunching and the numbers of direct and indirect beneficiaries are calculated, as well as the economic consequences. While every government has the unenviable task of deciding how to use its limited resources for the benefit of the whole population, and economic growth is vital for development and the eradication of poverty, this focus on

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[32] DFID, *Eliminating World Poverty: Building Our Common Future* (DFID, 2009) p. 9.
[33] Ibid, pp. 9, 132.

economic returns can have undesirable consequences for the poorest as they generally do not give value for money or the greatest return for any particular investment.

Literacy or health education programmes in different languages for rural populations often have extra costs associated with them (for example personnel, transport and communication), as do integrating rural areas into the local and national economy, through developing local markets, technical advice or helping farmers form associations. Participation in the local political process poses particular challenges in rural or marginalised urban areas, but is essential for community cohesion and developing a collective vision for change. These programmes or policies may bring low economic rates of return for the money invested, but could have significant impacts on people's lives in terms of improving their basic standard of living, combating preventable diseases, overcoming isolation or becoming part of a wider economy.

Any projects or programmes, particularly projects orientated towards meeting social needs, should therefore be analysed not only in terms of the aggregate number of people who benefit, or the economic rate of return, but how they contribute towards to social justice as a key component within governance for human flourishing and how they respond to the needs of the different sectors of population such as women and children. Trade will therefore not focus simply on macro-economic figures that tend to hide the plight of the poorest who do not have sufficient capital, assets or economy of scale to compete on equal terms, but will support local farmers in cooperatives who are seeking to develop local markets to benefit their families and communities. Education policy will be concerned that Universal Primary Education is of equally good quality in the rural areas as in the big cities, and will also respond to local conditions, such as different cultures, languages and traditions.

Using a human flourishing approach, a central part of any national or local government policy should be focused towards ensuring everyone in society has all of their basic needs of housing, shelter, security and food met and can therefore reach a minimum acceptable level of well-being. UK development assistance should also go through this "human flourishing test" of how it affects the most vulnerable groups in any given developing country. All policies should be asked the question: "How does this contribute towards human flourishing?" "How does this benefit the most vulnerable in society?

3.2 Transnational Corporations (TNCs)

Increasing power without corresponding responsibilities

There are now over 80,000 TNCs worldwide with ten times as many foreign affiliates. In 2008 these companies employed a total of approximately 77 million people. Some of the biggest companies, such as General Electric, Shell and BP dwarf many nation states. Although TNCs account for a small percentage of total global private sector activity and only 4% of total employment, they are extremely powerful as between one third and two thirds of world trade takes place within TNCs and their policies can have a huge influence on millions of people.[34] This poses a governance challenge and, according to UN Special Representative John Ruggie:

> *The root cause of the business and human rights predicament today lies in the governance gaps created by globalization - between the scope and impact of economic forces and actors, and the capacity of societies to manage their adverse consequences. These governance gaps provide the permissive environment for wrongful acts by companies of all kinds without adequate sanctioning or reparation.*[35]

Negative impacts such as environmental pollution and social conflict are "externalised", (seen as external to the company's activities) so that the local population or the host country government is burdened with cleaning up environmental pollution or addressing resulting conflicts. For example, in 2006 Dutch-based Oil Company Trafigura was accused of dumping hundreds of tons of oil waste in Abidjan, Ivory Coast through an intermediary, which caused more than 30,000 people to suffer reported health problems. This happened even though Trafigura knew that the waste was highly toxic, having been refused permission to dump it in the Netherlands for this very reason. Although Trafigura publicly denied any wrongdoing[36], in 2007 the company paid over £100 million to the Ivory Coast government which exempted it from legal proceedings in the country, and on September 23rd 2009 reached a pre-trial settlement to pay £30 million to the 30,000 claimants in a class action.[37] On June 23rd 2010 the company was also fined by a Dutch court for illegally exporting toxic waste to a Third World Country and harming the environment.[38]

Many host countries have been unwilling to hold the companies operating on their territory to account. The government may be unwilling to do so when a significant proportion of its GDP comes from the activities of foreign investors who have significant assets and therefore

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[34] CAFOD, *Towards a mature understanding of the role of the private sector in development*, CAFOD Policy Briefing.

[35] John Ruggie, *Protect, Respect and Remedy: a Framework for Business and Human Rights*, UN Report, A/HRC/8/5 (2008) para 3.

[36] http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/20_09_09_trafigura_statement.pdf.

[37] http://www.reuters.com/article/idUSLN607675 .

[38] http://uk.reuters.com/article/idUKTRE66M1SB20100723 .

significant power and influence. There may also be cases of corruption by the local elites in collusion with the companies themselves.

There may also be legal and financial barriers to holding companies to account under domestic law, resulting in a lengthy and complex process, with disputes over appropriate jurisdiction (as happened over many years in the case of Union Carbide in Bhopal). It may not result in a fair outcome for the government or community involved, due to the greater resources and experienced lawyers available to the businesses. There may also be insufficient national legislation developed in terms of human rights and environmental standards. Lawyers may be unwilling to take up cases for fear of reprisals, or judges or other public officials may still be open to bribes in favour of the company involved. In so-called failed states or states that are suffering internal conflicts the national government will have limited possibilities of controlling TNC activity.

TNCs also have access to very favourable dispute settlement mechanisms within most Bilateral Investment Treaties (BITs), which are treaties signed between two governments to protect investments from one country's companies in the other country. Under these treaties the investors are able to sue a government for changes in policies, for example, that promote more environmentally rigorous standards that go beyond the laws that were in place when the treaty was originally signed. There are relatively few corresponding responsibilities placed on the companies.[39] Although each BIT is different and there are various exceptions built into them, there has been a wide-ranging litigation against governments (not all successful) on issues such as environmental policies, expropriation of land as part of a national land reform programme response to the financial crisis and failing to quell labour unrest.[40] This can threaten a country's ability to pursue its own national development policies and represents an imbalance in power relations.

The local population also has limited options to hold companies to account. They may have to rely on ineffective or unwilling government or in a few cases on regional or international human rights courts. For example, according to Blacksmith Institute the town of La Oroya in the Peruvian Andes is one of the top ten most polluted cities in the world.[41] However, despite ongoing national and international pressure and government pronouncements, Doe Run, the US-based company that is currently operating there and is largely seen as responsible for the dangerously high levels of lead found in children's blood (99% above World Health

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[39] UNCTAD (2001), *Social Responsibility*, UNCTAD Series on Issues in International Investment Agreements, p. 17.

[40] Luke Peterson (2009), *Human rights Treaties and Bilateral Investment Treaties*, International Centre for Human Rights and Democratic Development.

[41] Blacksmith, *The World's Most Polluted Places, The Top Ten of the Dirty Thirty* (Blacksmith Institute, 2007).

Organisation acceptable limits in 1999),[42] has been very slow in attempting to clean up its operations or alleviate the situation[43] and has been granted numerous time extensions from the Peruvian government to implement the required environmental and health programmes.[44] The lack of action to protect the environment was cited as one of the main reasons for The Peruvian National Society of Petrol, Mining and Energy to suspend the membership of Doe Run in May 2009.[45]

There are further problems associated with natural resource extraction, in particular in terms of militarization of the zones involved where the state doesn't have complete control or cooperation of the local population, such as in certain areas of Nigeria, DRC and Colombia. Here either army personnel or private security operations guard the installations, undermining many of the rights of the local population. For example, UK-registered company Afrimex, which trades minerals through two companies registered in DRC, was found by the UK National Contact Point for the OECD Guidelines for Multinational Enterprises to have used suppliers who were making payments to a rebel group (RCD-Goma) and to have applied insufficient due diligence through the supply chain, which resulted in sourcing from mines involved in forced labour.[46]

Furthermore, much of the natural resources are contained within the lands of indigenous peoples, and they are seldom consulted over activities that take place within their lands and receive only a small fraction of the profits, if any.[47] This situation has lead to increased and sometimes violent conflicts between these groups and the companies involved and the governments, posing a threat to current and future investments. The lack of effective controls on the trade in natural resources also allowed many government officials to be involved in illegal trade, in coordination with local, national or trans-national corporations.

There are various actions that are necessary in order to overcome this accountability vacuum and to ensure that TNCs can become part of governance arrangements that contribute towards human flourishing. These approaches can be broadly divided into: a) self regulation and market based mechanisms b) stronger domestic regulation for TNC

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[42] See, for example: DIGESA, 1999; Doe Run 2003; Blacksmith 2006, 2007.

[43] Sentence from Tribunal Court, Lima, 12 May 2006. See www.tc.gob.pe/jurisprudencia/2006/02002-2006-AC.html.

[44] Blacksmith, op cit.

[45] http://www.snmpe.org.pe/DocSNMPE/NotaPrensa/archivos/ndp_19-05-2009.pdf

[46] http://www.bis.gov.uk/policies/business-sectors/low-carbon-business-opportunities/sustainable-development/corporate-responsibility/uk-ncp-oecd-guidelines/cases

[47] IWGIA (2009), *The Indigenous World 2009*, IWGIA.

operations abroad, c) strengthening developing country governments to hold TNCs to account, and d) international agreements.

TNC self regulation

There are various voluntary initiatives to encourage more responsible business behaviour, such as the UN Global Compact, which, as the founding documents state, is "not a regulatory instrument, but rather a voluntary initiative that relies on public accountability, transparency and disclosure to complement regulation and to provide a space for innovation".[48]

The Extractives Industry Transparency Initiative (EITI)[49], a coalition of governments, companies, civil society groups, investors and international organisations, aims to strengthen governance by improving transparency and accountability in the extractives sector. It does this by through the full disclosure by companies of what they pay to governments and by the governments of what they receive from oil, gas and mining. It enables the monitoring and reconciling of company payments and government revenues at a national level. Disclosure of public revenues and expenditure can empower citizens to hold their governments to account for the use of natural resources and participate in decisions over the most appropriate models for development. The EITI is welcome and has the commitment of 42 of the biggest industry players, as well as over 30 governments. However, only a small number of countries have made significant progress within the initiative so that while it has been helpful, the actual disclosure to date has been quite piecemeal and varies considerably from country to country.

Furthermore, efforts are needed by the TNCs themselves and by governments to engage with communities in a transparent and honest way. Creative forms of governance of these TNCs need to be explored through which local communities and local authorities become part of the formal decision-making process over what activities are undertaken in their own territories, so that TNCs can better serve those communities in which they are operating. Governance for human flourishing needs to apply to all actors involved.

This voluntary approach is favoured by UN Special Representative John Ruggie[50] who argues that TNCs need to develop their activities based on the idea of "due diligence" as part of their core business practice. This will include steps a company must take to abide by national law and to become aware of, prevent and address human rights impacts. It will build

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[48] Corporate Citizenship in the World Economy, United Nations Global Compact,
  http://www.unglobalcompact.org/docs/news_events/8.1/GC_brochure_FINAL.pdf .
[49] http://www.eitransparency.org/eiti.
[50] Ruggie, op cit.

upon existing control systems to assess and manage financial and related risks. He presents this as part of a set of "differentiated but complementary responsibilities" under the framework of "Protect, Respect and Remedy", where TNCs have a responsibility to respect the human rights of the people in the communities in which they are operating and the states have the responsibility to protect people from their own and third party abuses, and to provide more effective remedies.[51]

His approach has broadly been welcomed but also criticised as being too dependent on the voluntary cooperation of the TNCs involved, which is not always forthcoming. To ensure accountability of TNCs we need to go beyond purely voluntary measures.

National legislation for TNCs operating overseas

The Publish what you Pay[52] initiative (connected with, but different from the EITI above), is a civil society campaign, working with citizens of resource-rich countries for the mandatory disclosure of company payments and government revenues from the oil, gas, and mining sector, as well as the disclosure of licensing arrangements and extractive industry contracts. Mandatory disclosure both by companies and by host governments is vital if true transparency is to be achieved, therefore governments of industrialised countries with TNC headquarters should require country-by-country disclosure of payments of all extractive companies registered or listed on financial markets in their country.

This disclosure should go even further. Building on the 2006 UK Companies Act that broadens the understanding of company responsibility and requires companies to "have regard" to such matters as "the impact of the company's operations on the community and the environment", the UK government should take a lead in including disclosure of payments as mandatory reporting for all UK-based companies abroad. Human rights as well as social and environmental assessments should be made part of the listing and reporting requirements for all multinationals.

There are many other possibilities within domestic legislation to hold companies to account in the countries where they have their headquarters, but it is an area that is only recently being developed in international law.[53] In the absence of any legally binding international legislation to control TNCs, greater use of this legislation should be explored. This approach

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[51] Ibid, para 9.

[52] http://www.publishwhatyoupay.org/en/about.

[53] Philip Alston, "The 'Not-a-Cat' Syndrome: Can the International Human Rights Regime Accommodate Non-State Actors?" in Philip Alston, ed., *Non-state actors and human rights* (Oxford University Press, 2005) pp. 3-37.

needs to be complemented by the ability of the developing country governments to control their own policies and hold TNCs to account and ensure that their actions bring benefits to the whole population.

Strengthening developing country governance

As a way of strengthening the state duty to protect, Ruggie also argues that partnerships between home and host States of the same transnationals are needed particularly where the host states "lack the technical or financial resources to effectively regulate companies and monitor their compliance".[54] This is a clear call to donor countries to help strengthen governance structures in developing countries to be able to regulate TNCs. This support will need to focus on strengthening the legal system and structures, as well as guaranteeing its political independence, in order that it can act in a way that protects human rights and the environment, even when faced with competing public policy issues such as economic growth or national security. It will also need to strengthen the democratic political institutions so that they can coordinate and monitor the TNCs.

Key support would need to go towards incorporating human rights standards into national laws, strengthening the expertise and independence of the judiciary (including, in many cases increasing salaries to recruit high quality professionals and combat corruption), strengthening business monitoring and compliance institutions, and developing a legally accountable government through strengthening ombudsmen and human rights commissions. Support will be needed to develop mechanisms through which citizens can access information about the relationships between TNCs and their governments, as well as mechanisms to hold them to account. [55]

Additionally, due to the increasing conflicts caused due to extraction of natural resources from indigenous and other communal lands, countries that have indigenous peoples should set up a consultation mechanism to ensure their free, prior and informed consent as to activities within their territories, as well as the protection of the environment and the equitable sharing of benefits.[56] This is necessary to reduce conflicts and to ensure that TNC activity, particularly the mining, gas and oil sectors, contributes to the development of indigenous peoples and respect for their territorial integrity.

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[54] Ruggie, op cit. para 45.
[55] For more detailed analysis and recommendations see DFID (2002), *Safety, Security and Accessible Justice, Putting Policy into Practice*, DFID.
[56] James Anaya (2009), *Report by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya*, UN Report, A/HRC/12/34.

International agreements

The OECD Guidelines on Multinational Enterprises[57] are currently the most widely applicable set of government-endorsed standards related to corporate responsibility and human rights. However, they are limited in their scope and reach and have significant flaws, such as the weakness of National Contact Points (NCP), which is the office responsible for implementing the guidelines, and the lack of possible sanctions. As recognised by the Report of the UK's Joint Parliamentary Committee on Human Rights:[58]

> "The UK NCP can perform only a limited role, however, as a Government-led organisation with few investigative powers and no powers to sanction individual companies... it falls far short of the necessary criteria and powers needed by an effective remedial body, including the need for independence from Government and the power to provide an effective remedy."

In 2003 there was an attempt by a Group of Experts to draw up some UN Draft Norms on the Responsibilities of TNCs.[59] These norms received significant pressure against their adoption. This remains a very contentious issue and many people, including Ruggie, are hostile to the idea of a binding international treaty, arguing that it would take too long to develop, is too contentious and would divert energy away from other initiatives.

However, as Ruggie himself has argued, there is no "single silver bullet solution"[60] to the challenge of holding businesses to account for their impacts, and a variety of methods are needed. These will include a range of medium term and longer term solutions. Bearing in mind the reluctance of states to take unilateral action, the weakness of many host governments and the lack of awareness of many businesses of their human rights responsibilities, we need to concur with the findings of the Joint Committee on Human Rights that:[61]

> "The impact of business on human rights is a global issue that ultimately requires a global solution... We believe that an international agreement should be the ultimate aspiration of any debate on business and human rights. There is considerable scope for joint working on a regional level and globally to agree a consistent approach to

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[57] OECD (2000), DAFFE/IME/WPG(2000)15/ FINAL.

[58] UK Parliament Joint Committee on Human Rights, *Any of our business? Human rights and the UK private sector,* (London: The Stationery Office Limited, 2009) para 84.

[59] UN, *Draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights*, E/CN.4/Sub.2/2003/12 (2003).

[60] Ruggie, op cit. para 7.

[61] UK Parliament Joint Committee on Human Rights, op cit. para 106.

business and human rights. We recommend that the Government develops such joint-working programmes."

A human flourishing approach to governance requires that all actors can be held accountable for their actions by those who are the most affected, with a special emphasis on those who are traditionally excluded or marginalised from participation. A legally-binding international framework is the best vehicle to achieve this effectively in the long term.

3.3   Tackling corruption

Corruption damaging to the lives of poorest

Corruption disproportionally affects people experiencing poverty. It is based on a complex web of power relations and exacerbated through the lack of transparency and accountability, and closely linked to situations of poverty and weak governance. Corruption comes in many forms such as bribery, money laundering, diversion of licit financial flows such as aid money or company payments, nepotism and favouritism to gain jobs, contracts, land or resources. It involves individuals and groups of people within given systems and structures, including government officials, the private sector, foreign public officials and banks who are working for their own good as opposed to the good of the whole population. Tackling corruption, particularly through strong accountability and transparency mechanisms, needs to be at the heart of strengthening good governance for human flourishing.

It is estimated that corruption costs African economies more than $148 billion per year, and that African countries lose 7.6% of their annual GDP in the form of illicit capital flows.[62] According to one report: "When multinational companies bribe foreign public officials, it undermines the rule of law and the principle of fair competition and entrenches bad governance in developing countries, hindering their efforts to alleviate poverty and often contributing to instability and human rights abuses. Corruption, including bribery, impedes the delivery of vital public services, denying millions of people access to water, health and education across the developing world".[63]

A culture of secrecy and lack of transparency exacerbates this situation. If citizens do not have access to information about important information such as government expenditure, licitation processes and contracts, government subsidies or national development strategies,

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[62] UN, *Economic Development in Africa, Reclaiming Policy Space: Domestic Resource Mobilization and Developmental States* (United Nations, 2007) p. 29.

[63] Statement by CAFOD, Christian Aid, Global Witness, One World Action, Tearfund, The Corner House and Transparency International UK, 9 December 2009.

then corruption can more easily go unchecked. In situations of poverty, the temptation for corruption is greater, as the need is more acute.

Corruption also happens at a very local level, for example where local government officials use funds for their own political or personal gain, or where a local school denies access to pupils whose parents can't pay an additional fee. Poverty is one of the main drivers as local teachers or government officials seek to supplement their wages. It is therefore an issue in the private as well as the public sectors. It is both a result of bad governance and contributes towards it, creating a culture of impunity for abuses. It is not simply based on inadequate structures and systems but has relational breakdown and power imbalance at its heart, where people become removed from the impacts of their actions and governments and business are allowed to operate with little accountability.

It is not clearly just an issue in developing countries, as problems such as lack of transparency and accountability, concentration of powers in the executive branch of government and secretive government contracts are issues that are repeated the world over. Tackling corruption needs to start at home. The reduction of corruption is global effort in which all actors need to participate, from governments, international institutions, business and civil society. It is a challenge in rebuilding trust and community values where these have broken down, and of providing alternative forms of sustainable incomes for those who see corruption as the only alternative for survival.

To this end the UK's commitment to the International Aid Transparency[64] Initiative is welcome, through which donor governments agree to give "regular, detailed and timely information on volume, allocation and, when available, results of development expenditure", emphasising the role of transparency and mutual accountability, including conditions attached to aid. Below we outline further necessary actions.

Anti corruption legislation

The two main global initiatives in existence to tackle corruption are the 1997 OECD Convention on Combating Bribery of Foreign Officials[65] (Anti-Bribery Convention)[66], and the 2003 United Nations Convention against Corruption[67] (UNCAC).

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[64] http://aidtransparency.net/.

[65] DAFFE/IME/BR(97)20, http://www.oecd.org/dataoecd/4/18/38028044.pdf.

[66] with its corresponding Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions adopted in December 2009.

[67] http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf.

Based on a human flourishing approach to governance these initiatives need to include participation of civil society groups as well as clear mechanisms of accountability and transparency. However, the 2009 UNCAC Conference of State Parties, which agreed the review mechanism for the Convention, failed to agree to these basic requirements of full publication of country reports and other information (transparency), in-country visits by independent reviewers (accountability) and meaningful participation of civil society (participation).[68] The role of UNCAC as an effective tool for strengthening governance through combating corruption is therefore in doubt and this situation needs to be rectified.

According to Transparency International, the UK has not fully implemented its obligations under the OECD Anti-Bribery Convention, which has undermined efforts to promote democracy and good governance in countries that receive UK development assistance. The passing of the Bribery Act in April 2010 was one step in the right direction, and it is now essential for the UK Government to have a comprehensive, cross-Whitehall anti-corruption strategy to implement the necessary measures, and an anti-corruption champion within Cabinet.

National accountability and transparency mechanisms

There is a vital role for audit institutions such as an ombudsperson's office in tackling corruption. For these audit institutions to be effective they need to be guaranteed political and administrative independence and sufficient budget to be able to hold the government to account. Their powers must include the ability to access all government documents, to interview government officials and to publish their findings and recommendations. In the absence of other bodies, they also need to act as a first point of contact for grievances from the population. Strengthening ombudspersons offices is of particular importance in transitional democracies or those that are emerging from conflict situations where many of the democratic institutions have been operating ineffectively and with a high degree of authoritarian control.[69]

A culture of secrecy breeds corruption and it is important that citizens can easily gain access to government information, particularly on income and expenditure at all levels of government, in ways that are meaningful. This may mean publishing figures on an internet site, providing written information on budget summaries or holding regular public meetings with the information presented in a clearly understandable form. Transparency can empower

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[68] http://transparencyusa.blogspot.com/2009/11/uncac-parties-leave-future-in-doubt.html.
[69] Michael Dodson and Donald Jackson, 'Horizontal Accountability in Transitional Democracies: The Human Rights Ombudsman in El Salvador and Guatemala', *Latin American Politics and Society*, 46(4) (2004) pp. 1-27.

a much more active citizen engagement and develop a culture of trust and openness, for example the National Council of Churches in Kenya published the budgets given to each head teacher on a notice board in communities where they were working, so that parents could hold them to account for how they were using the money allocated for their children's education.

Strong civil society has an important role in combating corruption and there are many creative examples of where civil society groups have engaged with state officials to publicly raise the awareness of the situation of corruption and to push for concrete action. For example, Fifth Pillar in India printed 1 million zero rupee notes with the inscription "I promise to neither accept nor give a bribe" and whenever someone is asked for a bribe or expected to pay one, they hand over these counterfeit notes. This shows that there is a general awareness and rejection of corruption and that there is greater public scrutiny. One result has been that many officials have then quickly supplied the public service necessary without needing any extra payment and there have been no reports of negative repercussions.[70]

Strengthening state institutions

Corruption can spread more quickly where there are underpaid and poorly motivated government officials, badly run offices and inadequate controls on public finance. Strengthening the overall governance of the state, which often will include increased wages and clear career paths based on merits as opposed to political patronage, is therefore essential to combating corruption and enabling the government to govern effectively and in a transparent way for the benefit of its citizens.

Institutional reform is important, particularly in the justice sectors, so as to combat a culture of impunity and enable everyone to have access to mechanisms of justice. Research[71] has shown that the rule of law is necessary for the protection and promotion of economic and social as well as civil and political rights and that an effective justice sector is a safeguard against corruption. A culture of impunity and mistrust in the justice institutions can discourage participation as people will look to alternative forms of justice.

So donor support for institutional reform is vital to promote governance for human flourishing that facilitates policies that are directed towards those in most need, encourages accountability and transparency and enables citizens to trust the institutions enough to participate in public life.

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[70] http://www.cnngo.com/mumbai/none/zero-rupee-833044.

[71] DFID, *Safety, security and accessible justice, putting policy into practice* (DFID, 2002) p. 13.

3.4 Intergovernmental institutions

Since the end of the Second World War and the creation of the United Nations and the Breton Woods Institutions (International Monetary Fund-IMF, World Bank and World Trade Organisation-WTO), global governance has changed significantly. Countries have come together to "pool" their sovereignty in these intergovernmental institutions, as well as in many regional institutions such as the European Union, the Inter-American Commission on Human Rights and regional trade agreements. States agree to be bound by their rulings which effectively can overrule national policy decisions. This isn't inherently negative as the international institutions should still be accountable to their national members. Nevertheless, in practice there are a number of challenges with the governance of these institutions.

Firstly, they are only loosely monitored by national parliaments. As one commentator notes on the IMF:[72]

> "Nowhere, North or South, has there been consistent active parliamentary oversight of a state's Governor and Executive Director at the IMF. True, several notable legislative interventions have occurred in respect of the Fund since the 1980s, particularly by the US Congress when debating quota increases for the institution. In a handful of countries like Britain, Canada, France, Ireland and the Nordics (again, all in the global North) the minister of finance has in recent years begun to submit an annual report to the legislature concerning the government's activities at the IMF. Yet these cases are striking as exceptions to the overall pattern of sidelined national assemblies. Indeed, in the vast majority of cases governments have taken credits from the Fund without first obtaining parliamentary consent, in spite of the significant effects of these loans on government budgets."

This means that the national governments that have "pooled" their sovereignty fail to monitor the use of that pooled sovereignty and are therefore less accountable to their citizens.

Secondly, global decision-making has concentrated power in the hands of a few countries, who have significant influence in the decision-making process, for example the IMF, where Japan, Germany, US, UK, France have over 38% of the vote and 43 countries of sub-Saharan Africa have a mere 4.4%.[73] Global decision-making on economic policy (more of a reality than political global governance through the UN) therefore takes place via the interaction of a few key national governments within these global economic institutions. This

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[72] Jan Aart Scholte, *Civil Society and IMF Accountability*, CSGR Working Paper 244/08, (2008) p. 11.

[73] http://www.imf.org/external/np/sec/memdir/members.htm.

is clearly at odds with a human flourishing model as it compromises the ability of governments to be in control of their own policies, to serve the population through public services and to focus their actions towards social justice and the inclusion of all.

Even with formal parity in decision-making power, such as the WTO where the 140 members each have the same voting rights, there is still no practical equality as around a third of the countries do not have any permanent representation in Geneva[74] and the size of delegations varies significantly between countries. Now much of the negotiating is done through groupings, such as the G77 group of developing countries, to try and produce more parity in the negotiations, but this hasn't proved particularly effective and has done little to correct the power imbalance.

The climate change talks in Copenhagen in December 2009 highlighted issues of this imbalance of power. The negotiations had taken place over a period of two years to come to a global agreement, however, during the final stages there were two separate attempts to present the conference with an "agreement" or text that had been drawn up with the participation of only a handful of the most powerful countries. In the end the conference agreed only to take note of the Copenhagen Accord proposal and nothing binding was agreed. The lack of transparent participation was seen by many as a key factor in frustrating the negotiations, but so was the unwieldy nature of the negotiations and the paralysis in part because the state delegates couldn't physically get to into the building due to the sheer numbers of people present.

The UN, seen by many as the most appropriate and democratic global institution to tackle key global issues such as climate change and development, where the one member one vote system allows for access to decision-making for smaller and poorer countries, is increasingly seeing itself marginalised from multilateral processes by the G8 and G20 groupings, that seem to have the ability to reach and implement decisions much more quickly, albeit in a less democratic way. So the challenge is to see what kind of global governance can be established that, like a G20, makes for quick decision making, but also, like the UN, allows the poorest countries and groups to have meaningful influence.

Thirdly is the issue of civil society participation in intergovernmental institutions. Participation at a global level by civil society has often been the result of hard-fought battles, and even then only results in ad-hoc and often informal mechanisms, with no permanent programme of work, without any binding commitments made and therefore with little follow up.[75]

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[74] Scholte, op cit.
[75] Ibid.

Notwithstanding, within the UN system there has been a dramatic increase in civil society participation, with the number of accredited civil society organisations rising from 744 in the early 1990s, to 1226 in 1996 and 3051 in 2007.[76] This has enabled many civil society groups to have access to different stages of policy-making.

However, with minimal financial or technical support available, civil society groups from many developing countries are simply absent at international negotiations, unless they receive support from northern NGOs or donor governments. In general, it can be said that although participation has increased, it tends to be from a limited sector of civil society, "predominantly Northern, western, urban, professional, male-led, able-bodied and white,"[77] further excluding southern constituencies that are likely to be most affected by the policies.

Finally we come to the issue of accountability mechanisms within the intergovernmental institutions themselves that are often very weak and ineffective. At the World Bank there is an Inspection Panel and a Compliance Advisor Ombudsman which handle accusations that the Bank failed to follow its own policies. However, they cannot issue binding decisions and they can only act on World Bank policy rather than national or international law and human rights declarations.

Also, under some of the established review mechanisms, for example The UN Convention on Corruption or the ILO Convention 169 on Indigenous and Tribal Peoples, national governments are only "encouraged" to consult the affected groups but there are no obligations to do so. This means that civil society involvement in accountability is at the discretion of governments, allowing a government that has excluded certain sectors of the population to carrying on doing so with little course for redress.[78] To address these issues we outline a number of proposals below:

Democratisation of intergovernmental institutions
There needs to be a democratisation of intergovernmental institutions in terms of their decision-making, transparency and accountability. Voting weights of the IMF and World Bank should recognise shares of population, and citizens must be able to hold these institutions accountable and voice their concerns. One first step for the current round of World Bank governance reform will be to ensure that developed, developing and transition

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[76] Kerstin Martens (2008), *Civil Society, Accountability and the UN System*, CSGR Working Paper, p. 10.
[77] Scholte, op cit., p. 15.
[78] See Peru's Alternative Report on the Implementation of ILO Treaty 169 on Indigenous Peoples (2008).

countries have a parity of voice and vote.[79] For the IMF the first step needs to include a formal acceptance of a double-majority decision making system, so that majorities are achieved on both voting rights and number of countries and not on board seats.[80]

Another key element is board seats at these institutions. The UK, as a top 5 shareholder, automatically gets its own seat at the executive board of World Bank and IMF, whereas 47 African countries are crammed into two seats together. This undemocratic mechanism of representation should be redressed. Also, the World Bank and IMF should respect Article XIX of the UN Declaration on Human Rights, the right to information, which would mean disclosure of all documents and a system of information requests.[81] It would also need to include the publication of the transcripts of board meetings, and the adoption of formal voting at board meetings, with voting records published.

It should be the UK's priority to use its power within these institutions to ensure that reform is forthcoming. Pushing IMF and World Bank reform could result in some sharing of the formal power currently enjoyed by the UK (in terms of a reduced percentage of the vote), but would lead to a fairer, more participative system of global governance. For this to happen, the UK needs to take a moral lead and to be generous in the arena of international diplomacy, seeing power as something not to be sought for power's sake, but to be fairly distributed and used to promote human flourishing.

Parliamentary scrutiny of intergovernmental institutions

To ensure greater accountability and transparency in decision-making it is important to strengthen the role played by Parliament in its scrutiny of the activities of UK representatives in multinational organisations. This will involve a more in-depth monitoring through select committees of the activities of the UK permanent representatives, ministers and civil servants within these organisations. Monitoring would need to be focused on how the policies being promoted or agreed in these international fora fit with the principles of participation, service and social justice within the model of governance for human flourishing. The government should make widely available details of all the activities of the permanent representatives as well as the agendas and minutes of all meetings and negotiations, thereby developing greater trust and cooperation.

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[79] European NGO statement on Bank governance reform, 9 October 2008,
http://www.brettonwoodsproject.org/eurowbreform08.
[80] See http://www.brettonwoodsproject.org/ukimfreform,
http://www.brettonwoodsproject.org/doc/wbimfgov/implementingDM.pdf.
[81] http://www.ifitransparency.org.

Strengthening developing country participation

At the international level, participation of developing country governments in intergovernmental institutions and negotiations needs to be deepened. Support is needed to increase the representative capacity of developing countries, which could include establishing and maintaining offices in Geneva, New York or Washington, or increasing the size and expertise of the delegations in treaty negotiations of international summits. Participation needs to be meaningful, so increased legal and thematic expertise is essential at all stages of the negotiations and for the implementation of any agreements. This could involve secondments or exchanges with UK or EU staff, or other logistical support, based on a long-term partnership between donor countries and developing countries, thus strengthening the cooperation not only at a bilateral level but in different international fora.

Increasing civil society participation and accountability mechanisms

Wider provision should be made for the participation of civil society groups from developing countries, both in the preparations for international negotiations and in the meetings themselves. Special provision needs to be made for the participation of the groups who have traditionally been excluded from many negotiations, such as women, indigenous groups or small-scale farmers. This could be done through the ongoing technical and financial support for national or regional civil society coalitions or umbrella groups, thus enabling them to have a consistent participation over several years to be able to build up expertise and working relationships based on trust and mutual commitment.

Clear civil society monitoring and accountability mechanisms need to be established within the intergovernmental organisations. They would vary according to the nature of the institution, but would need to include, as a minimum, provision to be able to reach binding commitments and responsibilities in each meeting that are then reviewed in the following one; resources with which to facilitate the meetings (including civil society participation) and to coordinate the implementation of the agreements. The aim of accountability is not only to know what is going on, but to be able to affect change, so the ability to reach agreements that are then implemented by the secretariat of the relevant institution are vital.

Within UN review mechanisms, for example, on the Convention on Corruption, or the Universal Periodic Review, civil society participation should be made obligatory. This would go much further than the present production of shadow or alternative reports, which often results in the production of separate reports but without any dialogue of further understanding of the other side's position. Making civil society participation obligatory in UN country-review mechanisms could help to bring these groups together that are traditionally in

conflict with each other. It could be a first step in building greater understanding, trust and working relationships to develop public policies in a participative manner.

4. Summary of policy implications

This paper started by proposing an approach to governance for human flourishing based on the three inter-related principles of participation, service and social justice. These were then applied to UK development policy in the four areas of a) bilateral implementation of UK policies towards developing countries, b) governance of transnational corporations c) tackling corruption and d) governance of intergovernmental institutions.

To conclude we offer a summary of policy recommendations for the UK government.

UK international development policy

1. Strengthen the partnership approach to development assistance, so that developing country governments can determine their own development policies in response to the needs of the population, increase accountability and transparency mechanisms and ensure that the most marginalised groups are included.

2. Actively seek out the opinions and participation of the most marginalised groups in the development of UK policies.

3. Strengthen programmes in developing countries to support civil society networks, including faith-based organisations, so that they can actively participate in governance as well as peace building and conflict resolution, enabling people to develop policies in a collective manner that will contribute to the human flourishing of all.

4. Audit all new and current UK policies on international development to ensure that they are focused on the most vulnerable sectors of society, promote participation of civil society groups and strengthen government institutions. All policies should be asked the question: 'how does this contribute towards human flourishing?'

Accountability of TNCs

5. Ensure mandatory disclosure by TNCs with their headquarters in the UK of all payments to overseas governments on a country by country basis, and gradually extend this to include reporting on environmental and human rights issues in an effort to increase transparency and participation of people in decisions that affect their lives.

6. Target development assistance towards strengthening developing country governance to hold TNCs to account for the activities within their countries, so that the governance of TNCs can be to the benefit of the whole population.

7. Develop joint-working programmes on a regional and global level to draft an internationally-binding agreement on business and human rights.

Tackling corruption

8. Ensure that tackling corruption is a government priority by developing and implementing a cross departmental anti-corruption strategy looking at all forms of corruption, as well as through implementing the UK Bribery Act with sufficient funds available for enforcement.

9. Work with recipient governments to implement effective accountability and transparency mechanisms at all levels of government in order to develop trust and participation between different sectors of society and a government that is responsive to the needs of the people.

10. Prioritise institutional reform, particularly in the justice sector, so as to combat a culture of impunity and enable everyone to have access to mechanisms of justice

Democratising intergovernmental institutions

11. Comprehensively reform the governance and transparency of international financial institutions so that they can be responsive to the poorest countries and groups.

12. Increase parliamentary scrutiny over the policies and activities of UK representatives in the intergovernmental institutions to enable accountability for the actions of the UK government in international fora.

13. Support developing country efforts to increase their capacity to participate in intergovernmental institutions, treaties and negotiations.

14. Encourage initiatives to implement permanent consultation mechanisms and accountability procedures in all intergovernmental institutions and to make civil society participation obligatory in national review mechanisms for UN instruments such as the Convention on Corruption and the Universal Periodic Review.