HUMAN RIGHTS AND GLOBAL RESPONSIBILITY:
AN INTERNATIONAL AGENDA FOR THE UK
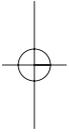
David Mepham with
Jane Cooper

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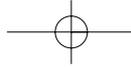
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Acknowledgements

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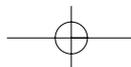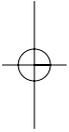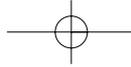
Executive summary

The events of 11 September 2001, military action against Afghanistan and Iraq, and George Bush's self-declared 'war on terror' have been the critical backdrop to this Government's foreign policy over the last few years, and they have had a significant and sometimes negative impact on UK international human rights policy. These events have also underscored the extent of our global interdependence: no country, however prosperous or apparently secure, is unaffected by state failure and human rights violations in other parts of the world.

Far from justifying a downgrading of human rights, the changed global security environment reinforces the need for stronger commitments to human rights on the part of national governments, international institutions and non-state actors, not least the corporate sector.

The fuller observance of human rights – civil, cultural, economic, social and political – is key to tackling the underlying causes of terrorism and global instability. Democratic societies that respect human rights, particularly the rights of minority communities, are also the best defence against political and religious extremism. A greater commitment to a more prosperous and socially just global economy – in which the corporate sector has an important role to play – can reduce the risks of violent conflict.

The Iraq war was enormously divisive internationally, and UK support for it in the absence of a second UN resolution has damaged the UK's relationship with some countries and weakened its global influence in some respects. However, the UK remains a significant player on international human rights with a good overall record of achievement. Bilaterally, and through its membership of the key multilateral organisations, the UK should continue to exert positive influence in favour of human rights.

This report is not intended as a comprehensive overview or audit of UK international human rights policy, nor does it address the UK's domestic human rights record. Its purpose is to focus on three specific international human rights issues where UK Government policy can and should be significantly strengthened, and to set out some policy recommendations in each of these areas.
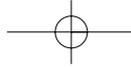
●   **Human rights and the international business agenda**

Many UK companies invest internationally and source from overseas, particularly in developing countries. Managed well, this investment and sourcing can help to accelerate poverty reduction, development and the realisation of human rights. Managed badly, however, it can contribute to, or be associated with, human rights abuse, conflict and worsening development indicators.

The UK Government and many UK companies consider themselves as leading players internationally on the corporate social responsibility (CSR) agenda. But while CSR has brought benefits, it also has its limitations. Maximising the contribution of the corporate sector to international human rights requires a clearer framework of corporate accountability, wider policy measures to make human rights a central focus of the Government's relationship with international business and more joined up policy across different government departments. Having secured a reputation for prudent economic management over the last seven years, the Labour Government should be more self-confident about making the case for a changed relationship with the business sector, one in which corporate rights are matched by a stronger set of international corporate responsibilities.

●   **Human rights and multilateral organisations**

It should not be left to the neo-conservatives in the US to point out the absurdity of Saudi Arabia being a member of the UN Commission on Human Rights or Libya being its chair. Progressives, who actually care about the UN and believe in multilateralism, need to demonstrate a more serious commitment to reforming these institutions. UN Secretary-General, Kofi Annan, has argued powerfully and correctly that the multilateral order (not least the United Nations itself) is at a crossroads: either these organisations become much more effective at meeting common problems, or major powers will be tempted to act independently and multilateral organisations will be marginalised.

As a permanent member of the UN Security Council, and as a leading member of the European Union, NATO and the
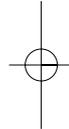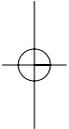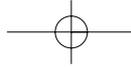
Commonwealth, the UK is well placed to help strengthen multilateral organisations on issues like human rights. But this will depend on getting international support for the rationalisation of certain institutions, proper funding of human rights work, greater transparency and accountability, and the mainstreaming of human rights activity within these organisations.

● **Human rights, conflict and intervention**

The Blair Government has been a strong supporter of 'humanitarian intervention'. The UK has intervened militarily overseas four times since 1997 – in Kosovo, Sierra Leone, Afghanistan and Iraq – and has used 'humanitarian' arguments, albeit inconsistently and to varying degrees, to justify these interventions. The Iraq war will make the building of a progressive consensus on intervention more difficult but it does not make it any less important or urgent.

Developed countries, like the UK, need to focus much greater attention on conflict prevention, using development policy and diplomacy to tackle problems 'upstream' before they have developed into full-blown humanitarian crises. They need to put their own house in order, looking at the extent to which their policies on issues like arms exports or trade may be contributing to human rights abuses in other countries. In those extreme circumstances where interventions on human rights grounds are judged necessary, considerably greater care needs to be taken to minimise harm to civilians, for example through limits on the use of cluster munitions. Intervening powers also need to make human rights a more mainstream concern in their support for post-conflict reconstruction and peace building.

UK action on all these issues – the international business agenda, multilateral institutions, conflict and intervention – would be more effective if the UK Government was itself more joined-up on human rights issues. The actions of all UK government departments need to be consistent with the UK's international human rights obligations and be properly mainstreamed into their work. On this basis, the UK could
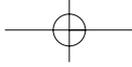
make an enhanced contribution to the global protection and promotion of human rights, something that is both a moral responsibility and in our common interest.
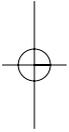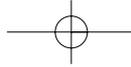
Key policy recommendations

The UK Government should:

● Revise the format of the Annual Report on Human Rights, with more balanced coverage of cultural, economic and social rights, alongside its coverage of civil and political rights. The report should accurately reflect the work of all UK Government departments on international human rights.

Beyond Corporate Social Responsibility: the international business agenda

The UK Government should:

● Press all UK companies to make respect for labour rights an integral part of their international supply-chain business strategies and address systematically the negative impacts of their sourcing and purchasing practices on the way that producers hire and treat their workers overseas.

● Strongly support the Organisation for Economic Cooperation and Development (OECD) Guidelines on Multinational Enterprises and strengthen the UK's National Contact Point (NCP) system, by strengthening its resources substantially and empowering it to investigate allegations whether or not a formal complaint has been made.

● Support the establishment of a permanent UN body, with clear and transparent procedures, to monitor the role of international companies in conflict zones.

● Support a strengthening of the Kimberley Process on 'conflict diamonds' by establishing a regular independent monitoring mechanism to encourage compliance by member countries.

● Support the introduction of an industry-wide mandatory requirement on companies to disclose net revenues to all national governments.
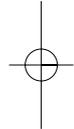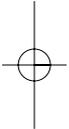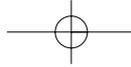
- Allocate additional resources to investigate cases of corruption and bribery by UK companies and nationals overseas and to bring successful prosecutions.

- Ratify the *UN Convention Against Corruption* as soon as possible, close down existing loopholes in its anti-bribery laws and deny Export Credit Guarantee Department (ECGD) cover, and other forms of government support, for a specified period of time, to companies found to have engaged in corrupt practices abroad.

- Support the draft *UN Norms on Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights* as an essential means for establishing a comprehensive legal framework of accountability on human rights.

- Establish a Human Rights and Business Advice Line to provide information about the human rights situation in particular countries, and assist companies, including small and medium-sized enterprises, in developing international human rights strategies, working closely with organisations like the International Business Leaders Forum.

- Press the International Financial Institutions (IFIs) to give greater priority to the protection and promotion of human rights, and make adherence to international human rights standards a pre-condition for UK support for project loans within the IFIs.

- Offer clear guidance to UK-listed companies on how to formulate Host Government Agreements in a way that is consistent with international human rights law and promotes greater transparency.

- Bring forward Company Law Reform Proposals that increase corporate transparency and accountability for any adverse social impacts, including on human rights internationally.

- Address the mechanisms, often referred to as the 'corporate veil', that companies use to shield themselves from liability for their negative social and environmental impacts, including their impact on human rights overseas.
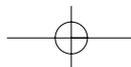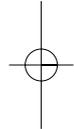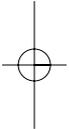
● Introduce a mandatory requirement on UK companies to report on their international human rights impact, via Operating and Financial Reviews (OFRs).

Renewing the UN and strengthening multilateralism

The UK Government should:

● Use its influence as a Permanent Member of the UN Security Council to ensure that the Council considers human rights and humanitarian issues in all conflict situations and that these issues are integrated thoroughly in the mandates of UN peace support operations.

● Create a budget for the Security Council (allocated from the UN's regular budget), so that it has funds directly available to help deal with rapidly deteriorating humanitarian situations.

● Support a significant increase in the proportion of the regular UN budget devoted to human rights.

● Push for high standards and independent monitoring of human rights observance to be a condition for membership of the UN Commission on Human Rights.

● Provide strong support for the International Criminal Court (ICC) and use UK influence with the US administration to try to prevent the US' attempts to force other countries into impunity agreements.

● Work for a stronger and more coherent EU policy on human rights and a stronger EU common position in international forums.

● Promote a reallocation of European Commission development resources, with a target of 70 per cent of these resources to be allocated to the poorest countries.

● Provide strong support to the Cotonou Agreement, ensure that the principles of good governance and human rights that underpin it are upheld and, where appropriate, push for targeted sanctions where breaches occur.

● Strengthen its support for the work of the Council of Europe and the Organisation for Security and Co-operation in Europe

(OSCE) on human rights, including the post of the OSCE High Commissioner on National Minorities.

● Press for the Commonwealth to take a strong and consistent stand on human rights issues, and support the creation of a Special Adviser on Human Rights to the Commonwealth Ministerial Action Group (CMAG).

● Provide increased support to the New Partnership for Africa's Development (NEPAD) initiative and to Africa's human rights bodies.

The responsibility to prevent, protect and rebuild

The UK Government should:

● Set a timetable for reaching the UN 0.7 per cent GNI/overseas aid target, and launch the UK's proposed International Finance Facility (IFF), if necessary unilaterally or in partnership with a couple of other countries.

● Use UK development resources to support democratisation and effective governance, the protection of human rights, the rule of law, a free press and media, a strengthening of progressive elements within civil society, and action against corruption. Organisations like the British Council, the Westminster Foundation for Democracy and the BBC World Service have an important contribution to make in these areas.

● Not allow the need to take action against terrorism to weaken its arms export controls and introduce a 'presumption of denial' for arms exports towards an agreed list of countries of concern, including countries where there are concerns about human rights.

● Implement its manifesto commitment to introduce full extra-territorial controls over UK arms brokers and traffickers.

● Support the establishment of stronger international controls over weapons transfers, including updating the EU Code of Conduct on Arms Exports, agreement on a new International Arms Trade Treaty and a strengthening of controls over small arms at the 2006 UN Small Arms Conference.

● Support an amendment to the UN Charter making more explicit the legitimacy of intervention on human protection grounds.

● Provide strong support to the work of Kofi Annan's new panel of experts on Challenges, Threats and Opportunities, and consider what further changes can be made to strengthen the UN's role in relation to international peace and security.

● Work with other governments, NATO, the EU and the UN to develop a new 'doctrine of military operations for human protection purposes'.

● Work for an international moratorium on the use of cluster munitions until the humanitarian problems associated with the weapons have been adequately addressed.

● Work for a global agreement, set out in a new international legal instrument, to ban the use of cluster munitions in populated areas.

● Record and publish the number of people killed or injured as a consequence of UK military action in Iraq and Afghanistan.

● Consider the introduction of a structured system of compensation for the families and dependants of those killed or injured as a result of UK military action.

● Work for stronger international commitment to the protection of human rights in post-intervention situations, and support a major role for the UN in such circumstances.

● Establish an independent evaluation of the humanitarian impact of the military interventions in Kosovo, Sierra Leone, Afghanistan and Iraq.

● Work with the US to encourage them to have a more constructive approach towards humanitarian issues and intervention, and a greater commitment to the principles of international humanitarian law.

● Support a significant strengthening of the EU Common Foreign and Security Policy, including enhanced capabilities for intervention on human protection grounds.

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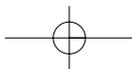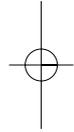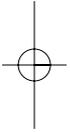
1. Introduction

The promotion of human rights is not just right in itself but an integral part of our long-term security. The most sustainable path to stability and prosperity is through respect for freedom and justice.

Rt Hon Jack Straw MP, 2002

We should remember that the terrorist attacks of 9/11 did not, in fact, change much in the lives of most people on the planet. Human insecurity was a daily reality before 9/11 for the hundreds of millions who live in absolute poverty or in zones of conflict, and it remains so. For these people, insecurity is not equated with where a terrorist might strike next, but instead, where tomorrow's meal will come from, or how a job will be found that provides enough income to ensure shelter for a family or purchase life saving medicines for a dying child.

Mary Robinson, 2003

The 'ethical dimension' to UK foreign policy

In May 1997, the then Foreign Secretary, Robin Cook, set out a new mission statement for the Foreign Office and for the incoming Labour Government. Amongst other objectives, the mission statement asserted that the UK would 'work through international forums and bilateral relationships to spread the values of human rights, civil liberties and democracy' (Cook 1997a). In introducing the new statement, Robin Cook famously said that UK foreign policy should have 'an ethical dimension' and that the Labour Government would 'put human rights at the heart of foreign policy' (Cook 1997b).

Though subsequently much derided and misrepresented, this commitment to global ethics and to giving human rights greater priority in UK international relations was important. Although the term 'ethical dimension' has now been exorcised from the New Labour lexicon (seen as offering too many hostages to fortune), the Government retains a stated commitment to human rights, as reflected in recent ministerial speeches and policy statements (FCO 2003a).

Moreover, this rhetorical commitment has produced some significant and welcome shifts in UK Government policy since 1997. While this report is not intended as a comprehensive overview of the Labour Government's record on international human rights over the last seven years, it is possible and useful to identify briefly some areas of real progress, as well as other respects in which the Government's policy has been less effective or where it has fallen short of its declared human rights principles.

What Labour has achieved

The Government has stressed its commitment to the universality and interdependence of human rights, affirming that cultural, economic and social rights matter as much as civil and political rights.[1] Some of the Government's best international human rights achievements relate to its support for economic and social rights, or what might be called 'the global social justice agenda'. As the opening quotation from Mary Robinson rightly points out, extreme poverty remains the single worst human rights problem facing the world today. Action to combat poverty should therefore be an absolutely critical dimension to the UK's international human rights strategy.

Since 1997, the Government has strengthened significantly the UK's efforts to combat poverty across the developing world. This has included a doubling of the aid budget and the refocusing of that aid on the poorest countries, the untying of aid, action on debt relief and support for making the global trading system fairer for poorer countries. The Government has linked its international development policy closely to the achievement of the Millennium Development Goals (MDGs), which are targets for poverty reduction and development agreed by 147 governments at the UN Millennium Assembly in 2000.[2]

On civil and political rights, the UK Government has been a strong supporter of tougher action to combat torture. This has included early ratification of the Optional Protocol to the UN Convention against Torture at the end of 2003, lobbying internationally for universal ratification of the Convention, and the production of an influential handbook on combating torture, the *Torture Reporting Handbook*, now widely used by judges and prosecutors in many countries around the world. The Government was also involved in the development of

Guidelines to EU policy towards third countries on torture and other cruel, inhuman and degrading treatment which were agreed in April 2001. These guidelines provide a wide range of possible options for EU member states when dealing with countries where torture is used.

The Government has adopted a clear position in opposition to the death penalty. In 1998, it established a Death Penalty Panel, made up of academic, legal and NGO experts on death penalty issues, to advise the Government on a strategy for the worldwide abolition of capital punishment. The Government has allocated substantial resources for governance, justice and penal reform and backed initiatives in support of freedom of association and expression, including a free press and media. A strengthened Human Rights Policy Department in the Foreign Office has helped push for the development of human rights strategies towards particular countries and better monitoring of human rights.

Since 1997, the UK Government has supported military interventions in response to widespread and systematic human rights violations in Sierra Leone, Kosovo and Afghanistan. While many of these interventions have been highly controversial – and their wisdom, efficacy and legitimacy still much disputed – the human rights situation in each of these countries is generally seen to have improved as a consequence of the intervention, although huge human rights issues remain in all of them (the issue of intervention and human rights is assessed in detail in Chapter 4).

The UK has been a leading advocate of the International Criminal Court (ICC), which came into force on 1 July, 2002, and is committed to working for global ratification of the ICC Statute. Within the UN system, the UK Government has played a constructive role in the UN Commission on Human Rights and the Office of the High Commissioner on Human Rights (the role of the UN in relation to human rights is considered in Chapter 3).

Since 1997, the UK Government has also made its policy-making on international human rights more open and inclusive, including the publication of an Annual Report on Human Rights, and more regular consultations with human rights experts in academia, think tanks and NGOs.

For its policies on these issues, the Government deserves credit. There are other areas, however, where its international human rights policy has fallen short or where policy has appeared confused and inconsistent.

The events of 11 September, 2001, and President Bush's self-declared 'war on terror' have been the critical backdrop to UK foreign policy over the last few years, and they have had a significant and sometimes negative impact on UK international human rights policy.

Where Labour has fallen short

For human rights advocates, the arguments for and against military action in Iraq were always complex and finely balanced. Saddam Hussein's human rights record was appalling and his removal and recent capture are very welcome developments, creating the real possibility of a better future for the Iraqi people, including greater respect for human rights.

But the UK Government's support for military action against Iraq in the absence of a second UN resolution seriously undermined its claim to be a champion of international law. To invest unprecedented diplomatic energy and political capital in the attempt to secure a second UN resolution – and then to dismiss its necessity when support for that resolution could not be secured – was not a tenable position.

UK support for war in Iraq was driven less by a concern for human rights, international law or the authority of the UN, and much more by the view that it would be dangerous for the world if the US were to take action unilaterally.

The legality of UK military action against Iraq continues to be open to serious question, with many international lawyers asserting that the action was illegal. In these circumstances, there is a powerful case for publishing in full the legal opinion of the UK Attorney General, so that the public, politicians and international lawyers can assess the evidence on which he based his claim that the war was lawful (the Iraq war is addressed in Chapter 4).

The UK Government's decision to align itself very closely with the foreign policy of the Bush administration has had wider implications for its human rights policy. For example, the perceived importance of 'keeping close to the US' has muted UK Government criticism of US policy in Guantanamo Bay, where large numbers of detainees have been held in clear violation of international law. While a few UK nationals have been released recently, large numbers of people of many different nationalities remain in captivity in Guantamano, denied their human rights to a proper legal defence and a fair trial.

UK support for the policies of President Bush has also damaged UK relations with some EU partners, with many Arab and Islamic countries, and with parts of the developing world. This will potentially make it harder for the UK Government to gain support for human rights initiatives in the near future, in the United Nations and elsewhere.

Despite some strengthening of its arms export controls, the UK Government's overall record on arms exports is disappointing. Since 1997 the UK Government has licensed arms and military equipment to a large number of countries guilty of violating human rights. There is evidence, too, of a further weakening of UK export controls since 11 September 2001, with arms being supplied to countries with poor human rights records because they are seen as being on side in 'the war on terror' (Mepham and Eavis 2002). The issue of arms exports is considered in Chapter 4.

In addition, the UK Government has pursued a rather inconsistent policy towards rights-violating governments abroad. Where the country is small, or where there are no major trade or geo-political interests at stake, the UK has been prepared to be quite tough on human rights issues. For example, the UK has taken a strong and public stand in opposition to the human rights violations in Burma and, in the last few years, in Zimbabwe.

While responding to human rights abuses in larger and more powerful states is obviously more complex, the Government does not appear to have given adequate priority to human rights in its relations with key countries like Russia, Saudi Arabia and China.

The massive human rights violations perpetrated by the Russians in Chechnya have been consistently downplayed because of the UK Government's desire to forge close links with President Putin, particularly in the context of 'the war on terror'. Similarly, there has been very little UK pressure exerted on Saudi Arabia to halt its systemic human rights violations, including its widespread use of extra-judicial killings, amputations and floggings. It is UK interests in Saudi oil and the Saudis' role as major purchasers of UK military equipment that appear to have taken precedence over human rights.

There are real concerns, too, about UK policy towards China. The UK Government sees good relations with China as important to its strategy for combating Islamic extremism and terrorism in Central Asia.

China is also a massive market for UK goods and a country that is enormously important to the global economy and global stability.

The UK has a formal human rights dialogue with China and argues that this has brought real results. The Government is right to say that engagement rather than isolation remains the best means for promoting systemic reform and better human rights observance in China, and that, long term, rapid economic progress is likely to encourage political liberalisation. However, it is far from clear that this dialogue is delivering the results claimed for it. By the UK Government's own admission, there has been no reduction in the number of executions (China is believed to execute more people than all the other countries in the world combined) or new improvements in relation to religious freedom. Serious concerns continue about arbitrary detention, freedom of expression and association, prison conditions and the treatment of prisoners, and the denial of cultural rights in Tibet and Xinjiang. Torture remains widespread. At the very least, the UK Government needs to be clearer about its criteria for judging the success or failure of dialogue with China.

Another major weakness of UK Government policy on international human rights has been a lack of joined-up thinking and working across different government departments. A good example of this is the UK *Annual Report on Human Rights*. This is a useful document that has helped to increase transparency and the quality of the public debate. However, it is considerably weakened by being an FCO Human Rights Report rather than the UK Government's Human Rights Report. This is not just an issue of semantics. It raises important questions about the relative importance that the Government attaches to economic and social rights, where the Department for International Development is obviously a key department. It also raises issues about the degree to which UK policy on other issues – international trade or arms exports – is consistent with its policy on international human rights.

There have now been six UK Human Rights reports. The first two such reports were produced jointly by the FCO and DfID and signed off by their respective secretaries of state. No adequate explanation was given as to why the report then became an FCO report, signed off only by the Foreign Secretary. While the report does contain a section on economic and social rights, the importance of these issues is not adequately captured in the new format.

The UK government should:

● Revise the format of the *Annual Report on Human Rights*, with
more balanced coverage of cultural, economic and social rights,
alongside its coverage of civil and political rights. The report
should accurately reflect the work of all UK Government
departments on international human rights.

The purpose and structure of this report

This report is not intended as a detailed audit of the UK Government's
overall record on international human rights, neither is it an evaluation
of the UK's human rights policies towards particular countries (though
country examples are often used). While it is clearly important that the
UK should practice what it preaches on human rights, the domestic
human rights record of the UK Government is beyond the remit of this
report. Nor does the report focus on the contentious issues of
immigration and asylum (the IPPR has written extensively on these
matters elsewhere).[3]

The purpose of this report is to address three specific areas of
international human rights policy and to suggest some new policy
recommendations for the UK Government in each. These are: the
international business agenda, international organisations and conflict
and intervention.

These are areas where the UK government is already deeply
engaged, but they are areas that would benefit from fresh thinking,
particularly given the changed global environment of the last few years.
Far from justifying a downgrading of human rights, the worsening
international security situation post 11 September 2001 reinforces the
necessity for strengthening national and global commitments to human
rights. The fuller observance of human rights globally – civil, cultural,
economic, social and political – is key to tackling the underlying causes
of terrorism and global instability. Democratic societies that respect
human rights, particularly the rights of minorities, are the best defence
against political and religious extremism. And a greater commitment to
a more prosperous and socially just global economy – in which the
corporate sector has an important role to play – can reduce the risks of
violent conflict.

While the primary audience for this report is the UK Government, it is intended that it should be of interest and use to other governments, NGOs, academics, companies working on human rights issues and the wider international human rights community.

Chapter 2 considers the growing significance of human rights issues for UK companies that invest internationally or that source from overseas, and how they have sought to address these issues, thus far primarily within the context of their corporate social responsibility (CSR) strategies. It looks at a number of corporate, UK Government and international initiatives that have been taken to ensure that companies adhere to high standards on human rights and suggests how these might be strengthened. It assesses the role that can be played by 'soft interventions'. It also considers the limits to voluntary approaches and whether a clearer framework of corporate accountability is necessary and desirable. Finally, it makes a number of recommendations for enhancing the overall contribution of UK companies and investors to the protection and promotion of human rights globally.

Chapter 3 focuses on the human rights role of some important multilateral organisations. It looks first at the role of the United Nations and the European Union. It also looks briefly at the Commonwealth, the Organisation for Security and Co-operation in Europe and the Council of Europe. Because of the scale and severity of the human rights challenge in Africa, the chapter touches on the role of the African Union and the New Partnership for Africa's Development (NEPAD). For each of these organisations, the chapter makes suggestions for reforms that should be promoted by the UK Government and others.

Chapter 4 deals with the issues of human rights, conflict and intervention. It assesses the human rights impact of some recent interventions in which the UK was involved: Rwanda, Bosnia, Kosovo, Sierra Leone, Afghanistan and Iraq. It considers the very important report produced by the International Commission on Intervention and State Sovereignty (ICISS): *The Responsibility to Protect* (ICISS 2001). Drawing on the work of the Commission, the chapter then considers in turn 'the responsibility to prevent', 'the responsibility to react' and 'the responsibility to rebuild'. It sets out some implications and recommendations for the UK Government on issues like development policy, arms exports and the protection of human rights in post-conflict situations. Lastly, the chapter addresses the issues of political will and

capacity to intervene on human rights grounds, and the importance of properly evaluating the humanitarian impact of past interventions.

Finally, the report pulls together some of the key conclusions and suggests how greater progress might be made on these issues over the next few years.
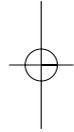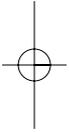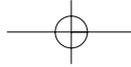
2. Beyond Corporate Social Responsibility: the international business agenda

Companies cannot and should not be the moral arbiters of the world. They cannot usurp the role of government, nor solve all the social problems they confront. But their influence on the global political economy is growing and their presence increasingly affects the societies in which they operate. With this reality comes the need to recognise that their ability to continue to provide goods and services and create financial wealth – in which the private sector has proved uniquely successful – will depend on their acceptability to an international society that increasingly regards protection of human rights as a condition of the corporate licence to operate.
    Geoffrey Chandler, former Shell Senior Executive, 2000

Where multinational enterprises are unaccountable across borders – and sometimes appear more powerful than the developing countries in which they operate – companies and governments must do more to restore the right balance, be socially responsible, increase stakeholder awareness and achieve cross-border corporate accountability.
                                    Rt Hon Gordon Brown MP, 2002

This chapter argues that a strengthened UK Government commitment to international human rights requires greater clarity about the roles and responsibilities of UK companies when they invest internationally or source from overseas. While the UK Government considers itself something of an international leader on corporate social responsibility (CSR), its approach to these issues, including human rights, has been defined – and to a considerable extent constrained – by its reluctance to go beyond purely voluntary initiatives (DTI 2004).

   The Labour Government's position on CSR has intensely political origins.

   Labour made a concerted effort to befriend business in the 1990s and then sustain a mutually supportive relationship in

its attempts to make itself electable and prove its economic credentials. As a consequence, New Labour has had an ambiguous view of the role of regulation, seeing its importance for the efficient functioning of a market economy whilst being concerned about the impact of legislation on innovation, competitiveness and its hard won, fragile relationship with business. The pressure of reconciling these divergent demands has bedevilled the quest for a clear account of the role of the private sector in realising the public interest (Joseph 2003).

The UK's approach has also been weakened by a failure to make human rights a sufficiently mainstream issue in the Government's relationship with UK businesses that invest internationally or that source from overseas and by a lack of joined-up policy across different government departments. For example, the role of the Department for International Development (DfID) ought to be central to this agenda: too often it is not. Many of the most difficult issues surrounding the international corporate sector and human rights occur in poor countries with weak and sometimes corrupt systems of government, where DfID is often a key player in trying to support the development process. It is in these circumstances – where local governments are either unable or unwilling properly to regulate the international private sector – that the case for cross-border corporate accountability is at its strongest.

Economic globalisation and the growth and reach of the international corporate sector are also making the voluntarist model look increasingly outdated. To maximise the benefits of private investment and to secure public policy goals, including progress in development and respect for human rights, global business needs to operate within a clearer framework of governance, which is underpinned, at the national and the global level, by law and regulation.

Having secured a reputation for prudent economic management over the last seven years, the Labour Government should be much more self-confident about making the case for a changed relationship with the UK's international business sector, one in which corporate rights are matched by a stronger set of corporate responsibilities. This is not an argument for heavy-handed 'command and control' regulation, but

rather for intelligent government intervention to safeguard and promote the public interest, nationally and globally.

As the UK Government acknowledges, sustainable development and respect for international human rights should be central to its approach to business competitiveness (DTI 2004). The Government should also stress that there would be clear advantages to progressive companies from establishing a clearer legal framework of corporate accountability, one in which the best international companies are not undercut by the worst.

Action on this front would complement the work that DfID and other development donors are already doing to help build stronger regulatory capacity within countries. It would also complement the UK Government's existing efforts – particularly those of the Chancellor, Gordon Brown – to promote a new structure of global economic governance (Brown 2002).

This chapter considers a number of corporate, UK Government and international initiatives that have been taken to ensure that companies adhere to high standards on human rights when investing internationally and sourcing from overseas. It also considers the advantages of a stronger global regulatory framework for the corporate sector. Finally, it makes a number of recommendations for enhancing the corporate contribution to international human rights, through government support for companies, the role of consumers, the use of public procurement, company law reform and human rights reporting.

Corporate social responsibility

While huge progress has been made over the last few decades in holding companies to account for their environmental performance, progress on social issues like human rights and labour standards has been more limited. This is partly because the environmental movement has been more effective than its human rights counterpart, mobilising public and consumer pressure on international companies with poor environmental records. In addition, pressure from the environmental movement has forced governments and companies to introduce a dense web of international environmental agreements, treaties and codes of conduct. As a result, it is often easier for companies to know what is expected of them by way of

good corporate behaviour in relation to environmental protection and sustainable resource management than it is for human rights.

Although human rights have lagged behind the environment as an issue for companies, this is changing fast. The increasing interest in corporate policies towards human rights largely stems from the expansion of global business opportunities and the huge increase in foreign direct investment, including in developing and transition countries. In 2003, for example, the UK private sector invested some £23.5 billion overseas (National Statistics 2003).

There is considerable evidence that, managed well, these inward investment flows bring huge development benefits, help poorer countries to better realise the human rights of their people and secure faster progress towards the achievement of the Millennium Development Goals (Borensztein *et al* 1998). One of the key objectives of international development policy should therefore be to work with poorer countries so that they can attract greater inward investment and maximise the impact of these flows on the reduction of poverty.

Managed badly, however, inward investment can contribute to or be associated with human rights violations. Specific, high-profile corporate abuses in the 1990s – Shell in Nigeria, BP in Colombia, Nike in Vietnam – served to focus greater attention on the human rights impact of some companies, particularly in the mining and extractive industries, as well as abuses in company supply chains for textiles, food, toys and some other manufactures, like electronics (CAFOD 2004).

More generally, companies operating in or sourcing from countries with repressive governments, and where human rights are violated, have seen the impact this can have on their investments and on the physical security of their employees and installations. Most large companies have now learned that if they are (or are seen to be) complicit in human rights violations, this can do enormous damage to their corporate reputations and their profit margins.

So far, the main way in which companies have addressed these issues has been in the context of their strategies for corporate social responsibility (CSR). For most companies this has consisted of a series of voluntary initiatives to enhance the social impact of their corporate policies, on issues like corruption, labour standards, health and safety, transparency and the environment. Leading CSR bodies like the International Business Leaders Forum have developed substantive
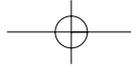
human rights agendas and the new FTSE4Good indices, which benchmark companies on their CSR performance, now include an assessment of companies' human rights impact.

Some corporate sectors – such as oil and some consumer goods industries – have incorporated human rights provisions into their codes of conduct. Others have provided human rights training to their employees and made human rights a bigger concern in relation to security arrangements. Some 40 multinational companies now have explicit policy commitments to the protection and promotion of human rights (Mary Robinson, cited in Sullivan 2003b)

A number of companies have sought to work more closely with human rights NGOs in formulating corporate policy on human rights in difficult countries. BP, for example, has adopted this approach: working with Amnesty International after serious concerns were raised about the human rights impact of the Baku-Tbilisi-Ceyhan (BTC) pipeline project.

The global dimension to human rights is becoming an important issue, too, for institutional investors.

> For reasons both of customer demand and regulatory encouragement, a growing number of large institutional shareholders are actively engaging with companies on issues of corporate responsibility, including human rights. (Sullivan *et al* 2003)

This is an important development that the Government can and should encourage, not least through its procurement policy and through requiring companies to report on their international human rights impacts (see section on company law reform later in this chapter).

The promotion of core labour standards and supply chain management

A critical human rights issue for companies is respect for labour standards, the norms and rules that govern working conditions and industrial relations. The four core labour standards are: freedom of association and the right to collective bargaining; the elimination of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation.

Core labour standards are fundamental human rights. They also contribute to broader processes of social and political development. The International Labour Organisation (ILO) has an important role in promoting these standards. Labour standards should be a more mainstream issue for international development donors like DfID, and for the work of the World Bank, in the context of developing countries' Poverty Reduction Strategies (DfID 2003a).

Addressing labour standards issues within this wider development context has two additional advantages. Firstly, it can help to ensure that action to promote labour standards does not restrict the livelihood opportunities of the poorest workers in the poorest countries through intentional or unintentional protectionism. Secondly, it can help prevent policy on labour standards from 'forcing up labour costs in the poorest countries to the point where competitiveness in trade is reduced to the detriment of livelihood opportunities for poor people' (DfID, Labour Standards and Poverty Reduction).

Some of the best UK companies have taken action to address labour standards in their international supply chains, particularly those that engage with the Ethical Trading Initiative (ETI). The ETI is an alliance of mainly retail and consumer goods companies, trade unions and NGOs operating in the UK. Established in 1998, the ETI's aim is to achieve improvements in working conditions in international supply chains through the application of an ETI Base Code grounded in ILO core labour standards.

The combined annual turnover of the ETI amounts to over £100 billion and is expected to rise significantly as more large UK companies sign up to join. The ETI's approach is one of change through dialogue: ETI members visit their suppliers, identify conditions that do not meet the ETI Code and then plan improvements in agreement with these suppliers. Members also take part in projects that aim to test out techniques of implementation and monitoring of the Base Code. Many ETI companies are becoming progressively more accountable for their treatment of workers along their international supply chains.

However, the international supply chain standards of many other UK companies remain inconsistent with a strong commitment to human rights and core labour standards. An Oxfam report published in 2004, *Trading Away Our Rights: Women working in global supply chains*,

based on detailed interviews with women workers in 12 developing countries, exposes the costs of industrialised companies' demands for faster, more flexible and cheaper production. For example, of the women textile and garment workers that Oxfam surveyed in Bangladesh, fewer than half had an employment contract and the vast majority had no maternity or health coverage. As the report notes, 'The benefits of flexibility for companies at the top of global supply chains have come at the cost of precarious employment for those at the bottom. The pressures of retailers' and brand companies' own supply-chain purchasing practices is undermining the very labour standards that they claim to support' (Oxfam 2004).

The UK Government should:

●   Work with trade unions and other governments to strengthen the role of the International Labour Organisation (ILO) in promoting core labour standards across the world, through technical assistance and capacity building and support for standard-setting and monitoring.

●   Press other development donors and the World Bank to be more active in promoting core labour standards, particularly in the context of developing countries' Poverty Reduction Strategies and through technical assistance and capacity building.

●   Press all UK companies to make respect for labour rights an integral part of their international supply-chain business strategies and address systematically how their sourcing and purchasing practices impact negatively on the way that producers hire and treat their workers overseas.

●   Continue to provide strong support for the Ethical Trading Initiative and encourage more UK companies to join it, particularly those from outside the retail or consumer goods sector. This would help to reinforce the importance of ethical trading principles to all businesses. It should also encourage ETI companies to engage more with international secondary suppliers, including home workers, the vast majority of whom are women.

Initiatives for the corporate sector

In addition to companies' CSR strategies and bodies like ETI, there are government and international initiatives aimed at the corporate sector and international human rights. The UK Government has been instrumental in promoting and supporting some of these, but many could be strengthened and expanded.

The UN Global Compact

The most high profile new initiative of recent years is the UN Global Compact, established at the instigation of the UN Secretary-General in 1999. The Compact brings together the private sector and non-governmental organisations (NGOs) with UN member states and UN agencies. It is based on nine core principles covering human rights, labour standards and the environment. Companies that sign up to the Compact are required to ensure, first, that they support and respect human rights within their direct sphere of influence and, second, that they are not themselves complicit in human rights abuses committed by others.

While the Compact has played a role in drawing attention to the responsibilities of the private sector in relation to human rights, labour standards and the environment, it is not yet having any real impact in influencing and changing corporate policies on the ground. There are no conditions of membership or criteria that companies must meet before they are permitted to become a member of the Compact. And there is no system for dealing with complaints made against specific companies.

On 24 January 2004, at the World Economic Forum in Davos, the UN Secretary-General announced his intention to hold a Global Compact Summit in New York in June 2004, to discuss how to strengthen the Global Compact.

The UK Government should:

● Promote criteria for membership and a system of independent monitoring of company compliance with the principles of the UN Global Compact. A complaints system, either through a small executive committee or through an appointed ombudsman, should be put forward for consideration at the UN Summit in June 2004. The UK Government should continue to fund the Global Compact.

The OECD Guidelines on Multinational Enterprises

The longest standing initiative for promoting high corporate standards is the Organisation for Economic Co-operation and Development (OECD) Guidelines on Multinational Enterprises. First adopted in 1976, the Guidelines have been endorsed by all 30 members of the OECD, and a further eight non-OECD countries. They set out a comprehensive list of guidelines for good corporate behaviour, including on human rights and labour standards.

The latest revision of the guidelines began in November 1998 and concluded with the adoption of a revised text by the OECD Ministerial Meeting in June 2000. The review was triggered, at least in part, by growing NGO and trade union opposition to the ill-fated Multilateral Agreement on Investment (MAI), and the view that this would strengthen investor rights without any commensurate investor responsibilities. The new text includes significant additions on child and forced labour, bribery and corruption, and consumer interests such as advertising and labelling.

The OECD Guidelines contain a mechanism (reporting through National Contact Points, NCPs) with the intended purpose that signatory governments should respond to concerns raised about specific companies, including adverse impacts on human rights. But this mechanism is weak and ineffective. For example, in October 2002, the UN Expert Panel on the Illegal Exploitation of the Natural Resources of the Democratic Republic of Congo named over 50 OECD companies as being in breach of the OECD guidelines in its report to the UN Security Council. A subsequent UN Security Council resolution – 1457 – urged 'all states…to conduct their own investigations, including as appropriate through judicial means, in order to clarify credibly the findings of the panel'.[4]

The UN Panel's list of named companies included four from the UK and dossiers on them were forwarded to the national contact point in the UK (which is located in the Department for Trade and Industry). However, the UK Government declared that the UN had supplied insufficient and inadequate material about the companies' alleged malpractice, and that proper investigation into these claims was therefore not possible. This case clearly illustrates the weakness of the existing NCP system and the need for reform, as well as the weakness in the existing UN system for investigating such cases (RAID 2004).

The UK Government should:

- Strongly support the OECD Guidelines on Multinational Enterprises, and strengthen the UK's National Contact Point (NCP) system.

- Locate the NCP in a separate agency, increase its resources substantially and empower it to investigate allegations whether or not a formal complaint has been made, with any findings published in the *Annual Human Rights Report*.

- Deny access to ECGD cover and other forms of Government support for a specified period for UK companies that breach the OECD Guidelines.

- Support the establishment of a permanent UN body, with clear and transparent procedures, to monitor the role of international companies in conflict zones

The Global Reporting Initiative

The Global Reporting Initiative (GRI), like the UN Global Compact, is a multi-stakeholder initiative that aims to develop and distribute voluntary sustainability reporting guidelines. Although hampered in part by funding problems and a complex decision-making process, the GRI has produced sustainability reporting standards across a number of business sectors. These are intended to allow comparisons between the performance of different organisations. To date the GRI has worked collaboratively with other mechanisms such as the UN Global Compact and the OECD Guidelines (for example, the GRI has recently produced guidance on measuring and communicating a company's adherence to the OECD Guidelines). The GRI is undergoing a review that is expected to result in an updated version of the guidelines in 2004/2005.

The UK Government should:

- Stipulate that all companies are required to report in accordance with the GRI Guidelines, in particular those seeking UK Government project loan support from International Financial Institutions or ECGD cover.
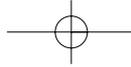
● Support additional funding for the GRI and ongoing efforts to rationalise the Guidelines, especially for smaller and medium-sized companies.

Voluntary principles on security and human rights

One of the most serious allegations that can be made against a company is its complicity in human rights abuses committed by security forces employed to protect its property. To address this issue, the UK and US Governments jointly launched the Voluntary Principles on Security and Human Rights in Zones of Conflict in the year 2000. The initiative was focused on the extractive industries and was developed in consultation with mining and oil companies, as well as human rights NGOs.

The Principles aim to provide guidance for companies that invest in difficult policy environments; in particular to ensure that human rights are fully protected in companies' security arrangements for the protection of their property and personnel. Since the principles were agreed, many of the companies involved in the initiative have sought to apply these principles in particular countries and have adopted human rights training programmes for their staff.

The UK Government should:

● Continue actively to support the Voluntary Principles and encourage other countries and companies to engage with the initiative. While the initiative has focused on the Extractive Industries, the UK Government should support and encourage its adoption by other industry sectors.

The Kimberley Process

The Kimberley Process Certification Scheme is a specific initiative designed to stop the flow of 'conflict diamonds' onto the world market, while at the same time protecting the legitimate diamond industry. The scheme was launched in January 2003 following widespread concern about the trade in diamonds exacerbating conflict and large-scale human rights abuses in countries such as Angola and Sierra Leone.

The certification process requires governments and the diamond industry to implement import/export control regimes in the rough diamond trade to prevent them fuelling war and human rights abuse.

Kimberley was negotiated by governments, civil society groups and the diamond industry. As a condition of membership, governments have been required to pass laws and regulations to implement the scheme and to produce tamper-proof certificates of origin.

By December 2003, 45 countries and the European Community were members of the process, confirming that they have the necessary legislation in place. There is scope, however, for strengthening the process. In particular, it should include a mechanism for regular, impartial monitoring of all national diamond control systems to oversee compliance in participating states. In December 2003, a monitoring mechanism was agreed which, although voluntary, is a step in this direction.

The UK Government should:

● Support a strengthening of the Kimberley Process by establishing a regular independent monitoring mechanism to encourage compliance by member countries.

The Extractive Industries Transparency Initiative

The Extractive Industries Transparency Initiative (EITI) was launched by Tony Blair at the World Summit on Sustainable Development (WSSD) in Johannesburg in September 2002. It is now a multi-stakeholder partnership of oil and mining companies, northern and developing country governments and NGOs. The EITI is co-ordinated by the UK Department for International Development.

The establishment of the EITI came partly as a response to an international NGO campaign 'Publish what you pay' which called for greater transparency over the revenue payments made to host developing country governments by international oil, mining and gas companies.

The campaign demonstrated that a lack of transparency damages human rights and development and is a source of corruption, conflict and instability in many countries. The converse is also true of course: better management of resources through greater transparency can help secure better governance, faster economic growth and greater progress in development, better working conditions and the realisation of human rights.

Revenues from oil, mining and gas are very important in about 60 developing and transition countries, but in many of these countries

neither the host government nor the multinational companies investing there are disclosing information about the payments made to governments for access to those resources. 'Of the 3.5 billion citizens in these countries, some 1.5 billion live on less than US$2 per day, representing over two-thirds of the world's poorest people' (*Global Witness* 2003). In the absence of revenue transparency, the people of these countries, and the international development community, have no adequate means to assess governments' management of their resources.

The aim of the EITI is to increase transparency over payments and revenues in the extractives sector. While the best UK companies are engaging with it, there is no guarantee that all companies will do so, particularly in some of the countries where greater transparency is needed most.

The first EITI pilot was set up in Nigeria in February 2004, and future pilots are planned in Ghana, Georgia and East Timor. It is important that governments, companies and NGOs support these pilots and use them to demonstrate the benefits of transparency over revenue payments. It is also important that the UK and other development donors should press for greater transparency in the financial affairs of state-owned oil and mining companies, as well as in countries' general budget processes. Development donors can help countries that are committed to securing budget transparency by providing technical assistance and strengthen the capacity of civil society in developing countries to interpreting and use this newly available data.

In the long term, there remains a strong case for introducing a mandatory requirement for transparency of reporting on revenue payments. This would help to ensure greater transparency overall, create a level playing field for companies and prevent the worst governments from trying to play one company off against another. Given that companies already know what they pay for internal accounting purposes, the regulatory burden of introducing such a requirement should be minimal.

The UK Government should:

● 	Support EITI pilots in Nigeria and elsewhere, and work for greater involvement by other developed countries, particularly the G8, in the EITI process.

● Provide increased support for governments committed to making their budgetary processes more transparent and support for civil society in developing countries to interpret and use the newly available data.

● Support the introduction of an industry-wide mandatory requirement on companies to disclose net revenues to all national governments.

Is voluntarism enough?

The discussion over whether the requirement for revenue transparency should be voluntary or mandatory raises a wider issue about the application of international human rights law to companies. The UK Government is particularly cautious and conservative on this issue, arguing that international human rights law applies to states and not to non-state actors.

This view pertains even when private companies and individuals claim the benefit of human rights for themselves in national and international human rights tribunals. For example, The European Court of Human Rights in *Autronic AG v Switzerland, Eur Ct HR Series A178 (1990)*, affirmed the Swiss company Autronic's right to freedom of expression under the European Convention. In most cases, the UK Government is also strongly opposed to any extension of extra-territorial jurisdiction.

This approach is open to serious challenge and is being undermined by new national and international legal precedents. For example, a clause in the UK Anti-Terrorism, Crime and Security Act (2001) has already opened up the possibility that UK companies and nationals, including company directors, could be prosecuted in the UK for corruption offences abroad, regardless of whether they involve public officials or the private sector (see section on corruption below).[5]

Similarly in France, legal action is being taken against a consortium of four companies, including French oil company Technip, and the US company Halliburton, for allegedly making up to £120 million worth of under-the-counter 'commissions' to public officials in Nigeria to smooth the path of a large gas contract. The legal action is linked to the OECD Convention on the Bribery of Foreign Public Officials, signed by 35 countries including the UK.

Under existing UK law, a parent company is protected to a large extent against liability claims for human rights abuses involving its subsidiaries, including those overseas. What is known as the 'corporate veil' protects and limits the liability of those that own or run companies in law, by creating the company as a separate legal entity from the point it is set up. Although there are some circumstances, such as fraudulent activities, where the 'corporate veil' can be lifted to hold shareholders or directors responsible for the actions of the company, these situations are very limited and rarely exercised.

However, the extent of foreign direct liability has been altered by recent cases in the US and the UK courts, which have also seen extensions of extra-territorial jurisdiction. In the US, The Alien Tort Claims Act of 1789 is being used in a number of cases to sue multinational corporations for violations of international law in countries outside the US. The Act grants jurisdiction to US Federal Courts over 'any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States'. There have been separate civil law developments in the UK, involving Rio Tinto in Namibia and Thor Chemicals and Cape plc in South Africa. Following a series of House of Lords judgements in these cases, transnational companies, headquartered in the UK, can now be held legally liable for human rights violations abroad where, for whatever reason, access to justice locally is restricted.[6]

At an international level, the International Criminal Court applies human rights responsibilities to individuals and the Geneva Conventions to armed groups. The UN Convention on Asylum also recognises the role of non-state actors as perpetrators of human rights abuse. The courts have confirmed that the definition of those entitled to refugee protection includes people with a well-founded fear of persecution from non-state actors in their own countries.

Important, too, is the beginning of a shift in international law towards tougher accountability of states that allow private persons or groups to act with impunity to the detriment of the human rights of individuals.

> Perhaps the greatest cause of violence against women is government inaction with regard to crimes of violence against women...a permissive attitude, a tolerance of perpetrators of violence against women, especially when this is expressed in

the home. (UN Special Rapporteur on Violence against Women 1995)

Contrary to the UK Government's claims therefore, there is a marked and welcome trend towards the application of international law to non-state actors, including the corporate sector. As the International Council on Human Rights Policy has put it

> The relevance of international law and enforcement is beginning to be taken seriously. Indeed, there is a growing sense that voluntary codes alone are ineffective and that their proliferation is leading to contradictory or incoherent efforts. (ICHRP 2002)

Corruption

Corruption is a good example of where voluntary CSR initiatives need to be underpinned both by international regulation and law, as well as much better systems of enforcement and greater political commitment. Corruption is fuelling conflict and human rights abuse around the world, and damaging the development prospects of many poorer countries. Developed country companies, including from the UK, are often involved in corruption, paying bribes to secure commercial deals. Some of these companies are also supported by cover from the Export Credit Guarantee Department (ECGD) (Corner House 2003).

The OECD Bribery Convention, 1997, principally focused on criminalising bribery of foreign officials. The UK ratified the convention in 1998 and it came into force in 1999. International bribery and corruption provisions were enforced from February 2002. However, the overall impact of the OECD Convention has been weakened by the inadequacy of the OECD's monitoring process and by the unwillingness of many governments, including the UK, to allocate the resources necessary to investigate cases or to prosecute individuals. In the UK, not a single UK national has so far been prosecuted. UK legislation also contains a number of serious loopholes: for example, that companies are not held responsible for the actions of their subsidiaries or of agents acting on their behalf (Corner House 2003).

In December 2003 the UN Convention against Corruption was signed by 95 countries, including the UK. This must be ratified by at least 30 states before it can come into force. The UK is committed to ratifying it but is looking at whether this requires new legislation.

The UK Government should:

- Allocate additional resources to investigate cases of corruption and bribery by UK companies and nationals overseas and to bring successful prosecutions.

- Ratify the UN Convention against Corruption as soon as possible, close down existing loopholes in its anti-bribery laws and deny ECGD cover, and other forms of government support, for a specific period, to companies found to have engaged in corrupt practices abroad.

The UN Norms

The most serious attempt in recent years to establish a comprehensive legal framework for the human rights responsibilities of companies is the *Norms on the Responsibilities of Transnational Corporations and other Business Enterprises with regard to Human Rights* (known as the Norms).[7] These were adopted unanimously by the UN Sub-Commission on the Promotion and Protection of Human Rights in August 2003 and have been forwarded to the UN Commission on Human Rights in 2004.

Faced with a proliferation of codes developed by NGOs and governments, the Norms are an attempt to rationalise the existing standards relating to the human rights responsibilities of companies. Their purpose is also to assist companies to implement human rights standards throughout their operations and to integrate human rights principles into their decision-making processes.

The Norms are based solely on existing international human rights law and labour standards, drawn, for example, from core ILO conventions, the convention against torture and the OECD convention on bribery, and they deal with issues like workers rights, corruption and security. As a set of values based on existing international law they apply to all 'transnational corporations and other businesses', not only those who have signed up to the Global Compact or other initiatives. As a consequence, they will help to level

the playing field between companies and open them up to competitive comparison.

While a number of trade bodies have criticised the Norms, some companies have welcomed their publication and expressed a willingness to use them. In December 2003, a group of seven multinational companies launched a three-year project, the Business Leaders Initiative on Human Rights (BLIHR). The companies involved in the initiative are ABB Ltd, Barclays plc, MTV Networks Europe, National Grid Transco plc, Novartis, Novo Nordisk and the Body Shop International plc. The project's aim is to test the Norms as a tool for businesses to use when faced with the conceptual and practical difficulties of implementing human rights principles at the country level.

Thus far, the UK Government has been lukewarm in its attitude to the Norms: a mistaken approach that overlooks the potential of the Norms for strengthening corporate accountability on human rights issues. While the Norms are currently not binding on international companies, they could carry real authority as 'soft law'. Over time, there is also a good chance that they will develop into a more binding legal document.

The UK Government should:

- Support the UN Norms, as an essential means for establishing a clearer legal framework of accountability for companies on human rights and as something that can develop into a more binding legal document over time.

- Encourage other UK companies and trade unions to support the Norms and to support the Business Leaders Initiative on Human Rights.

Mainstreaming human rights in UK Government policy towards business

Some of the best UK companies are engaging seriously with the international human rights agenda. But they are still the exception rather than the rule. Currently only a small number of UK companies that operate internationally make reference to human rights in their codes of conduct. For example, the vast majority of UK small and medium-sized enterprises that invest internationally or source overseas do not engage systematically with human rights issues.
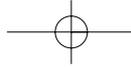
If the UK Government is to increase the contribution of UK companies and investors to human rights internationally, it needs to consider a wide range of policy instruments. This includes 'soft interventions' (intervention without a primary recourse to fiscal or legislative changes) (Joseph 2003). Far from being an alternative to hard regulation and legislative change, these can be an important complement to it. For example, the UK Government could help many companies to engage more with international human rights issues by providing advice and information on the human rights situations in the particular countries in which they wish to invest, or by helping companies to formulate human rights strategies. The Government could also help to empower shareholders, consumers, institutional investors, NGOs and trade unions to make greater demands of companies in respect of international human rights, particularly through greater transparency of reporting.

Government support for UK companies that invest internationally and source overseas

Many companies are unclear about what is involved in drawing up an international human rights strategy and could benefit from advice and support from government. At the same time, the UK Government already provides considerable support to companies – for example on trade missions or through the work of Trade Partners UK – that could be used more explicitly to promote human rights goals. Similarly, the Government could use its influence much better, working alongside private industry, developing country governments and international fnancial institutions (IFIs) to ensure that human rights safeguards are integrated into the negotiation, planning and execution of commercial projects, particularly in countries with weak systems of domestic regulation.

The IFIs, most obviously the World Bank, but also the African Development Bank, Asian Development Bank, Inter-American Development Bank and the International Monetary Fund, have an important role here. They allocate very substantial resources in support of development in poorer countries, but they have traditionally been weak in their approach to human rights concerns. But the importance of human rights and good governance to effective development is bringing about a shift in their thinking and there is now an increased willingness

to engage with human rights issues. It is vitally important that the UK and others should encourage this trend.

In the UK context, there is a vital role for DfID. Many poorer countries are now developing poverty reduction strategies and DfID can assist UK companies to engage constructively with them to harness the contribution of the private sector to the achievement of a country's development goals. DfID's support for Business Partners for Development (BPD) is a good example of what is possible. Over four years, the BPD programme – led by the World Bank – brought together business, civil society and governments, helping to create more stable frameworks for productive and pro-poor business activity.

The UK Government has an important potential role, too, in relation to Host Government Agreements. These agreements, concluded privately and without transparency between business and governments, are often for large-scale, long-term infrastructure projects, sometimes affecting a large population and geographic area. They routinely contain clauses that discourage compliance with the international human rights obligations of host states. They can also distort the democratic process by dictating the shape of domestic laws without accountability to the public and by demanding creation of a regulatory climate favourable to foreign direct investment without regard to the rights of local populations.

The UK Government should:

- Publicise and promote UK companies that demonstrate best practice on international human rights issues and engage actively with the Global Compact, the OECD Guidelines and the UN Norms.

- Establish a Human Rights and Business Advice Line to provide information about the human rights situation in particular countries, and assist companies, including small and medium-sized enterprises, in developing international human rights strategies, working closely with organisations like the International Business Leaders Forum.

- Ensure that UK Government-supported trade missions overseas address human rights issues in the prospective trading country and ensure that UK companies engage constructively with developing countries' poverty reduction strategies.

- Press the international financial institutions (IFIs) to give greater priority to the protection and promotion of human rights, and make adherence to international human rights standards a pre-condition for UK support for project loans within the IFIs.

- Offer clear guidance to UK companies on how to formulate Host Government Agreements in a way that is consistent with international human rights law and promotes greater transparency.

Empowering the consumer

Another potential means by which companies can be held to greater account for their impact on human rights globally is through the purchasing decisions of consumers. On average, eight out of ten UK company directors say that customers are an important influence in their organisation in respect of its social and environmental policy (Joseph 2003).

There is a clear and growing trend towards 'ethical purchasing' behaviour. This includes the purchase of explicitly 'ethical' products, such as Fair Trade coffee. However, it also encompasses the avoidance of certain mainstream suppliers on reputational grounds. While the growth of the more discerning consumer is a welcome development, its impact thus far has been limited. In a recent survey only five per cent of consumers claimed to make active and informed choices on ethical grounds in most of their purchase decisions. A further 18 per cent said that they frequently bought or avoided products according to the manufacturer's reputation for socially responsible conduct. However, the same survey showed that conventional product attributes such as quality and value for money were far more important determinants of purchasing behaviour than a perception of a company's social performance (Cowe and Williams 2000).

The UK Government should support fair trade and seek to promote fair trade principles more widely in the economy. It is also important for the Government to encourage a more sophisticated form of consumer engagement on international human rights issues, and to recognise the limits of individual consumer decisions in responding to some deeply rooted social and political issues. Consumer boycotts of particular products can sometimes make things worse rather than better. For

example, boycotting countries where child labour is prevalent may simply force children into more exploitative forms of employment and is unlikely to have any effect on the majority of child labourers who work in the non-traded sector. In these circumstances, a more joined-up development strategy is required to address these issues, involving support for children's education and the provision of better livelihood opportunities for their parents.

The UK Government should:

● Strongly support the fair trade movement and seek to promote fair trade principles more widely in the economy.

● Support further research into the impact of 'ethical' product labelling on consumers' purchasing decisions.

Utilising public procurement

The UK Government and all its public agencies should lead by example on corporate social responsibility issues and human rights, and use its considerable market weight in support of high standards. The rules governing public procurement largely originate in the EU. In December 2003 new EU Directives were agreed which clarify and strengthen the rules on the appropriate use of environmental and social criteria in the award of public sector contracts.[8] This legislative development gives local and national government bodies the opportunity to draw up procedural policies which require, for example, contracting companies to recognise the key ILO Conventions, the Universal Declaration of Human Rights and the UN Norms as a criterion of the contract award.

The UK Government should:

● Actively explore how to use the procurement budgets of UK public bodies in support of good corporate practice on human rights internationally.

Company Law Reform and human rights reporting

A particularly important opportunity to strengthen the international human rights obligations on companies is the forthcoming company law reform bill. The review of UK company law began in 1998 leading

to the publication of a government White Paper *Modernising Company Law* in 2002. A critical question for the review was whether shareholders should retain their dominant place in the structure of corporate governance, or whether companies should be accountable to a wider group of stakeholders. The review concluded that there should not be a significant break with the notion of shareholder primacy. However, it also concluded that the 'law should be used to emphasise the dependence of commercial success for a company on its cultivating and maintaining positive relationships with employees, customers and suppliers, and paying attention to the business's broader social and environmental effects' (Joseph 2003).

The Government claims to be making good progress on the main Companies Bill, which will implement the work of the Company Law Review. CSR Minister Stephen Timms has promised that a draft bill would be made available for consultation before its introduction to Parliament, and that this would happen shortly (Timms 2004).

When the Government does bring forward proposals, these should increase corporate transparency and accountability for any adverse social impacts, including on human rights overseas. The proposals should address the mechanisms, often referred to as the 'corporate veil', that companies use to shield themselves from liability for their negative social and environmental impacts, particularly in circumstances of grave human rights abuse overseas caused by systemic management failures. The Government should consider requiring directors to take all reasonable steps to minimise the negative impact of their companies business activities on international human rights. The proposed Human Rights and Business Advice Line could have a useful role in providing guidance to directors. This would also be a way of encouraging companies to introduce human rights training, impact assessments and reporting, and to be appropriately diligent in regard to human rights in respect of international supply chains and joint ventures.

In advance of the main Companies Bill, the Government proposes to make changes in respect of company reporting, through what are known as Operating and Financial Reviews (OFRs). These are supposed to provide shareholders and others with better and more relevant information on the performance of companies and their prospects for the future. While the Government is again promising to consult on these

proposals, it appears heavily predisposed to define the corporate reporting requirement in excessively narrow terms.

At present, companies have the option to produce an OFR as part of their financial reporting and accounts, but comparatively few do so voluntarily. The Government's declared intention is to require the largest companies to do so. However, 'controversially the current proposals distinguish between matters which must always be reported on, and those which must be reported on only when the directors consider them "material" to fulfilling the review's objective: an understanding of the business and its prospects. Importantly, social and environmental issues come within the latter discretionary category with the inherent risk that this approach will lead to under-reporting in these areas' (Joseph 2003).

This would be a missed opportunity. Openness and disclosure are essential prerequisites for the success of voluntary initiatives to enhance the social impact, including the human rights impact, of international commercial operations. Without disclosure companies cannot build the trust of their stakeholders. Greater disclosure can help strengthen the socially responsible investment (SRI) community, helping them to engage better with companies on international human rights issues.

There is an important precedent for this: the amendment to the Pensions Act 1995, which entered into force in 2000. This required pension fund trustees to reveal whether they had social, environmental and ethical policies. While there is still scope for considerable improvement, particularly on implementation, a survey of investment funds conducted in 2003 found that two-thirds of respondents now claimed to take account of social, ethical and environmental issues (Gribben and Olsen 2003).

The Government should make all elements of the OFR – financial, social and environmental – a mandatory requirement. The GRI offers a broad base for such reporting, perhaps with a narrower version developed for smaller businesses. The reporting guidelines might also draw on the Association of British Insurers' Guidelines on Social Responsibility, issued in 2001.

The UK Government should:

● Bring forward Company Law Reform Proposals that increase corporate transparency and accountability for any adverse social impacts, including on human rights internationally.
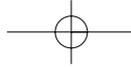
34   Human Rights and Global Responsibility

- Consider requiring directors to take all reasonable steps to minimise the negative impact of their companies' business activities on international human rights.

- Address the mechanisms, often referred to as the 'corporate veil', that companies use to shield themselves from liability for their negative social and environmental impacts, including their impact on human rights overseas.

- Introduce a mandatory requirement on UK companies to report on their international human rights impact, via Operating and Financial Reviews (OFRs).

- Build on the amendments to the 1995 Pensions Act, by requiring trustees to report to their members on how their statements of investment principles have actually been put into action.
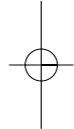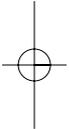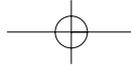
2. Renewing the UN and strengthening multilateralism

Militating for the rule of law, for the strengthening of the international system, for multilateralism is, I think, more important than ever, particularly at a time when some speak of the irrelevance of the UN…I believe the UN has never been as relevant and as necessary as today, which does not mean that it doesn't deserve reforms.

Sergio de Mello,
UN High Commissioner for Human Rights, 2003

This chapter argues that global interdependence reinforces the need for effective and legitimate global institutions that can help to tackle global problems. As the Bush administration is discovering in Iraq, there are limits to what any one nation – even the world's strongest military and economic power – can achieve through unilateral action. For the UK, as a medium-sized economic and military power, this is even more true. The UK's global influence on issues like human rights will be far greater where it operates in partnership with others, working through the key multilateral and regional organisations that have the necessary expertise and political influence.

But strong support for multilateralism needs to be matched by an honest assessment of the weakness of some existing multilateral institutions. It should not be left to the neo-conservatives in the US to point out the absurdity of Saudi Arabia being a member of the UN Commission on Human Rights or Libya its chair. Progressives, who actually care about the UN and believe in multilateralism, need to demonstrate a much more serious commitment to reform. Kofi Annan has argued powerfully and correctly that the multilateral order (not least the United Nations itself) is at a crossroads: either these organisations become more effective at meeting common problems, or major powers will be tempted to act independently and multilateral organisations will be further weakened and marginalised (Annan 2003).

A similar challenge confronts the European Union, following the breakdown of talks on a new European constitution in December 2003, and with ten new countries joining the EU in May 2004. If the EU is to

make more of an impact in responding to global issues like human rights, as well as the domestic issues facing EU citizens, it needs to demonstrate a greater willingness and capacity to reform.

As a permanent member of the UN Security Council, and as a leading member of many other international organisations like the EU, the UK is well placed to help push this case, and to strengthen their overall contribution to the protection and promotion of human rights. But at the same time, sensible reform proposals can often get bogged down in bureaucracy or be blocked by political vested interests, including the vested interests of the UK. Finding a way through these obstacles will require the building of enlightened coalitions with like-minded governments and with progressive elements in civil society. Focusing greater attention on the costs of institutional weakness may help to encourage a stronger commitment to reform (the divisions over Iraq, for example, have dramatically illustrated Europe's collective weakness as a foreign policy actor). Strengthening the role of regional organisations can also help to reduce the burden placed on the UN and the EU, freeing them to focus on issues where they can have most impact.

This chapter focuses mainly on the United Nations and the European Union. It considers briefly the human rights role of the Council of Europe, the Organisation for Security and Co-operation in Europe (OSCE) and the Commonwealth. Given the scale of the human rights challenge in Africa, the chapter also touches briefly on the African Union and the New Partnership for Africa's Development (NEPAD). For each of these institutions, the chapter makes specific policy recommendations. Other important international bodies – like the ILO and the International Financial Institutions – are addressed in Chapter 2.

The United Nations (UN)

Promoting respect for human rights has been a central concern of the United Nations since its inception. One of its first acts was to have the newly-created Commission on Human Rights draw up the Universal Declaration on Human Rights (UDHR). This document, adopted by the General Assembly in 1948, contains the first internationally agreed definition of human rights, a definition that remains the cornerstone of the international human rights system today.

Although the UDHR is not a treaty, most international lawyers now argue that it has become legally binding as a matter of customary law. In addition, member states are held accountable to their citizens through two detailed treaties. These were established in 1966 and entered into force in 1976: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Taken together with the UDHR, these documents are sometimes known as the International Bill of Rights. An additional five conventions have been adopted since, which contain more detail about the obligations of states in specific areas of human rights protection; such as racial discrimination; the rights of women, children, refugees and migrant workers; protection against torture or inhumane treatment, as well as a specific convention on genocide.

One of the UN's greatest innovations was to treat human rights as a proper subject for international concern and for eventual incorporation into international law. But at the same time, many members of the UN still fall far short of the standards set out in the Charter and the Human Rights Treaties. The overall performance of the UN system on human rights is also much less than it should be. There are three overarching problems that weaken the impact of the UN system on human rights. Firstly, human rights are still not sufficiently central to the mainstream work of the UN. Secondly, weak systems of management and organisation often mean that the UN is not able to deliver on the human rights commitments that it has made. Thirdly, and most importantly, too many UN member states are still not taking human rights issues sufficiently seriously. The recommendations set out below seek to address this, not by proposing grandiose new schemes for institutional restructuring (which are unlikely to gain support) but rather by focusing on some practical reforms, for which it might be easier to gain support and which could be introduced over a relatively short timescale.

There are also a critical set of issues about the role of the UN in relation to conflict, intervention and human rights. These issues are addressed in Chapter 4, including Kofi Annan's new panel on *Threats, Challenges and Opportunities* (UN News Centre 2003). The role of the UN in relation to business and human rights, specifically the work of the UN Global Compact, is addressed in Chapter 2.

The Security Council

The most recent calls for UN reform have centred on the reform of the Security Council itself. While the divisions over the Iraq war underscore the urgent need for a more representative and accountable Security Council, and for a better structure of global decision-making (not least on humanitarian and human rights issues), there is little prospect of such a reform in the short term. The UK Government has over the last few years called for a reformed Security Council, with an enlarged membership drawn from the different regions of the world, although it has refused to countenance any possibility of giving up the UK seat on the Security Council. In the context of the reform debate, there are deep disagreements about who should be on the council, how regional representatives should be selected and about the veto. Since 1992 there has been a UN 'Open-Ended Working Group on the Question of Equitable Representation and Increase in Membership of the Security Council' (OEWG), but its decade-long deliberations have failed to secure any real consensus or progress on the issue.

All existing permanent members have a right of veto over council reform, and it is inconceivable that the Bush administration (and perhaps some of the other veto powers) would agree to such a reform in current circumstances. Possibly a more fruitful area for progress in the short term involves pushing human rights higher up the agenda of the Security Council when it is discussing particular conflict situations. Although progress has been made in this area in recent years, more can and should be done. The Security Council, for example, could benefit from having some resources for responding very rapidly to crisis situations.

The UK Government should:

● Continue to make the case for an enlarged and more representative UN Security Council, drawn from the different regions of the world.

● Use its influence as a Permanent Member of the Security Council to ensure that the council considers human rights and humanitarian issues in all conflict situations and that these issues are integrated thoroughly in the mandates of UN peace support operations. This should include appropriate training for

UN personnel and getting UN Political Offices to report more systematically on human rights issues, with this information fed into Security Council discussions and decision-making.

● Create a budget for the Security Council (allocated from the UN's regular budget), so that it has funds directly available to help deal with rapidly deteriorating humanitarian situations. In such a case, these funds might be used to finance the deployment of human rights monitors or conflict mediators.

Funding, mainstreaming and rationalisation

One of the major obstacles to more effective UN action on human rights is lack of resources. The share of the regular UN budget spent on the human rights work of the Office of the High Commissioner on Human Rights is 1.7 per cent, at approximately $24 million. By way of comparison, the London Borough of Croydon spends almost twice this amount on its fire service (GLA 2004). In practice this means that key human rights figures within the UN itself, such as the High Commissioner on Human Rights, are regularly forced to go cap in hand to member states, private benefactors and NGOs to raise the funds to make their work possible. Many of the other human rights activities of the UN – such as its human rights field operations or work on indigenous peoples – also depend on voluntary contributions from governments.

Another key constraint is the lack of integration or mainstreaming of human rights within the UN. Despite some significant improvements over recent years, the human rights work of the UN remains too ad hoc and compartmentalised. A particular problem is the lack of co-ordination between different UN bodies and related organisations such as the Office of the High Commissioner for Human Rights (OHCHR), the United Nations Development Programme (UNDP), the United Nations Children's Fund (UNICEF) and the International Labour Organisation (ILO). In May 2003, the main UN agencies reached an agreement on how they would interpret the instruction to 'mainstream' human rights into all of their programmes, but progress to date has been limited.

The UK Government should:

● Support an increase in the overall budget of the UN, through increased member contributions, and encourage all member states to pay their dues in full and on time.

●   Support a significant increase in the proportion of the regular
      UN budget devoted to human rights.

The UN Treaty Bodies

The human rights treaty bodies are at the core of the UN system for the
protection of human rights, and, unlike the Charter bodies, they are
dependent upon state ratification. Every UN member state is a party to
one or more of the seven major human rights treaties and 80 per cent of
states have ratified four or more of these. However, the treaty bodies
that monitor and evaluate state policies and practices against these
commitments are weak and poorly funded and many governments fail
to report, or do so very late or superficially. They also lack a clearly
defined relationship with other parts of the UN human rights system,
including the UN High Commissioner for Human Rights. The result has
been a burgeoning number of reports, duplication of procedures, little
effort to synchronise outcomes and only rudimentary follow-up
processes. This has been a particular problem for the Human Rights
Committee, which polices the Covenant on Civil and Political Rights.
While it has the right to demand that any signatory to the Covenant
produce a report every five years, it lacks resources and the ability to
effectively scrutinise the actions of its signatories. The committee also
has no independent research resources relying, as it does, primarily on
NGOs to provide briefings on human rights infringements as well as on
information from member states.

   The UK Government should:

●   Support consolidation of the treaty bodies, through requiring
      state parties to submit one consolidated report applicable to all
      treaties they have ratified, organised on a thematic rather than a
      treaty basis. All of the Treaty Bodies should be provided with
      independent research and administrative support.

The UN Commission on Human Rights (CHR)

The UN Commission on Human Rights (CHR) is supposed to be the
main UN forum for the discussion of human rights. The 53 member
states of the CHR meet for six weeks in Geneva each spring and consider
and adopt resolutions on a wide range of general human rights issues

and some country specific situations. The CHR also has the power to appoint special rapporteurs, special representatives, independent experts or working groups to investigate subjects in depth. However, in recent years, the commission has become very heavily politicised, with acrimonious debates, obstructionism and point-scoring. This has very seriously undermined the CHR's efficiency and effectiveness and called into question its continuing relevance and value. A major issue of dispute at the 59th Session in 2003 was the election of Libya to serve as chair of the commission, despite its poor human rights record. Notwithstanding its recent and welcome decision to open up its weapons of mass destruction (WMD) programmes to international inspection, Libya remains an inappropriate country to be chairing the CHR.

Currently, the commission membership is elected by regional blocs and there are no special criteria that countries must meet before they serve on the commission. Arguably some countries with poor human rights records have actively sought membership of the CHR in part to shield themselves from effective scrutiny.

The UK Government should:

● Push for high standards and independent monitoring of human rights observance to be a condition for membership of the Commission on Human Rights. As an interim measure, countries should be required to make specific commitments in the area of human rights when being elected to the commission and, within a specified period, urged to formalise such declarations.

● Advocate far-reaching procedural reform, with increased resources linked to more effective and transparent working methods.

Special procedures

Special procedures is the less than elegant name given to the mechanisms established by the CHR to address either specific human rights country situations or thematic issues. Although they may be constituted in any manner, special procedures are generally undertaken by an individual, called a special rapporteur, or a group of individuals, called a working group. Their mandates are usually to

examine, monitor, advise, and publicly report on human rights situations in specific countries or on major human rights violations worldwide.

While the work of many of the special rapporteurs is generally held in high esteem, they often lack adequate resources and the criteria by which they are appointed are not at all transparent. In his Programme for Reform set out in 2002, Kofi Annan identified the need to set clearer criteria for the use of special procedures and better guidelines for their operations and reporting functions (Annan 2002).

The UK Government should:

- Provide increased support for the work of the special rapporteurs, and support a much more transparent process for the appointment of people to these posts.

The Office of the High Commissioner (OHCHR)

The first United Nations High Commissioner for Human Rights was appointed in April 1994. The most important responsibility of the High Commissioner is to provide a lead for the UN system on human rights issues, encouraging states to address their violations and to adhere to international standards. This can be achieved through public statements alerting the world to actual or threatened human rights crises and/or by dialogue with rights-offending governments.

The OHCHR provides support to the Commission on Human Rights and its special procedures, the Sub-Commission on the Promotion and Protection of Human Rights, and the seven treaty bodies. Over time, the OHCHR has evolved from a policy organisation to something akin to an operational agency, yet it continues to face serious challenges, has huge administrative problems and is chronically underfunded and overstretched.

Kofi Annan, has identified the OHCHR as a priority for the human rights work of the UN and has called for significant reforms, to strengthen its capacity to mainstream human rights across the UN system as a whole, and co-ordinate the work of the commission on Human Rights, the treaty bodies and the special rapporteurs (Annan 2003: Action 16).

The UK Government has been a strong supporter of the OHCHR and has provided assistance of nearly £8 million over the last two years

(making it the second largest funder of its work). But further support and reform is necessary, not least in rebuilding morale in the organisation following the tragic death of Sergio Vieira de Mello. One particular focus should be on strengthening the capacity of the OHCHR to support human rights initiatives on the ground, including through support for National Human Rights Commissions. As Kofi Annan has argued, 'Building strong human rights institutions at the country level is what in the long run will ensure that human rights are protected and advanced in a sustained manner' (Annan 2003).

The UK Government should:

●   Provide strong support for the new High Commissioner, Louise Arbour, in implementing the reform agenda outlined by the UN Secretary-General in 2002.

●   Encourage greater co-ordination by the OHCHR of the various human rights mechanisms within the UN and strengthen the OHCHR's capacity to support human rights initiatives at the country level.

The International Criminal Court (ICC)

While the International Criminal Court sits outside the UN system, it is a critical part of the evolving international legal order. The UN first recognised the need to establish an international criminal court in 1948 and it has considered the issue periodically ever since. In the 1990s, the conflicts in Yugoslavia and Rwanda pushed the issue of 'crimes against humanity' much higher up the international political agenda. In response, the General Assembly of the UN called for the creation of a permanent ICC. In 1998, 120 states adopted the Rome Statute, which set out the Court's jurisdiction, structure and functions, and provided for its entry into force (as occurred on 1 July 2002). Although the US initially supported the idea, and was a major participant in the Rome Conference, in the end, it voted against the Statute.

The ICC, when fully operational, will be the first global permanent international court with jurisdiction to prosecute individuals for the most serious crimes against humanity, including genocide and war crimes. Many human rights organisations and most democratic nations have expressed their support. Yet it is also the product of extensive

compromise. The ICC may lack jurisdiction in some cases over atrocities committed by tyrants against their own peoples. It may also allow too much room for national governments to delay, obstruct and avoid prosecutions. It has been seriously weakened by the lack of support from the US and its threat to cut aid to those countries that have signed up to it.

The UK Government should:

- Provide strong support for the ICC and use its influence with the US administration to try to prevent the US's attempts to force other countries into impunity agreements.

- Press countries that have not yet ratified the ICC Statute to do so, including Russia, China, Japan, India and Pakistan.

The European Union

The European Union (EU) has an important role in terms of promoting human rights globally. However, like the UN, its credibility as an actor in foreign policy has been severely tested in recent years. The divisions between member states over the Iraq war raised serious questions about the feasibility of a European Common Foreign and Security Policy (CFSP).

Over the last decade, the EU has rightly focused a great deal of attention on improving the observance of human rights amongst EU accession states, with all of these states now signatories to the European Convention on Human Rights and subject to the jurisdiction of the European Court of Human Rights. But the EU's role on human rights should extend way beyond its near abroad.

The Treaty of European Union, agreed in November 1993, set out a legal framework for human rights within the EU's External Policy. A commitment to human rights and the rule of law is formally part of the EU's Common Foreign and Security Policy (CFSP) and the EU's international development policy. The EU's trade agreements with third countries now include specific human rights clauses. The EU frequently raises human rights and democracy issues in its political relations with other countries, as well as having special Human Rights Dialogues with countries like China and Iran. And it often issues declarations about the human rights situations in particular countries. The European Commission is also the world's third largest aid donor and the EU is the

world's largest multilateral aid provider, the world's largest single market and the main trading partner of most developing countries.

Dialogue over human rights issues is an important part of many of these relationships, for example through the Cotonou Agreement. Signed in June 2000, Cotonou is the successor to the Lomé Convention, and is a Partnership Agreement between 77 African, Caribbean and Pacific (ACP) states and the EU. It has clear commitments on human rights, democratic principles and the rule of law. Good governance constitutes a 'fundamental element' of Cotonou. All parties to the agreement have undertaken to participate in political dialogue on these issues. Cotonou also provides for a special consultation process and possible suspension from the Agreement for countries in breach of the essential elements or in serious cases of corruption.

More recent developments at the EU political level include the solemn proclamation of the EU Charter of Fundamental Rights in December 2000, which constitutes a catalogue of rights and freedoms which the institutions have declared would, at the very least, serve as a guiding document for their actions. In addition, a convention was set up in 2001 which was entrusted with conducting a debate on the future of the EU, and later the specific task of drafting a constitution for the EU. The draft constitution was presented to the Member states in June 2003. It is still under negotiation, following the failure to get agreement in December 2003. When agreed, it is proposed that the EU Charter should become part of the Treaties, as a primary (and binding) source of European Community law.

In recent years, the EU has played an important role on a number of international human rights issues, including funding of election monitors, strong support for the International Criminal Court, continuing pressure in favour of the abolition of the death penalty, a series of initiatives to combat torture, action to combat violence against women and female genital mutilation and support for reproductive health rights and the rights of indigenous peoples. The EU has supported some useful regional human rights initiatives, such as the *Commission Communication on Human Rights*, as part of the Euro-Mediterranean Partnership. This includes concrete actions, benchmarking and performance evaluation.

Despite these actions, the overall impact of EU policy on international human rights often lacks coherence and punch. There are four areas in particular where EU policy is falling short.

Firstly, the EU is often prevented from pursuing a strong and consistent line on human rights by the divisions, and the conflicting political interests, of its member states. For example, there have been serious disagreements about the appropriate policy towards Zimbabwe, with French President Jacques Chirac inviting President Mugabe to an African Summit in Paris in 2003, against the wishes of many other EU member states. Similarly, towards Chechnya, EU states have been divided over the extent to which they should criticise or sanction Russia for its actions there. The UK has been a particular culprit here: strongly supporting closer ties with the Government of President Putin, and downplaying concerns about Russia's human rights record in Chechnya. As a minimum, EU member states need to consult better on ways of addressing human rights issues in particular countries, to prevent the efforts of some EU member states, or the commission, from being undermined by the actions of others. EU institutions and member states also need to better co-ordinate their assistance policies on governance and human rights.

Secondly, despite significant progress in some areas, the EU is not doing nearly enough to meet its international development obligations. The EU is committed to helping to meet the Millennium Development Goals, but its aid resources are not sufficiently focused on the needs of the poorest countries. In 1990, 70 per cent of EC development assistance went to the poorest countries, mostly in Asia and sub-Saharan Africa. By 2000, this figure had fallen to 38 per cent. While the figure has now risen to 48 per cent, this means that over half of EC development aid is not being spent in the poorest countries. The remainder is being allocated to middle income countries, particularly in North Africa, as part of efforts to discourage migration to the EU (DfID 2003b). The European Commission's 2001 Development Policy Statement asserted that poverty reduction in the poorest countries was its top priority, but this is clearly not reflected in how the Commission, at the direction of member states, allocates its aid resources (DfID 2003b). The importance of better integrating EU policy on development, foreign policy and migration has been addressed in a separate IPPR publication, *The Causes of Migration* 2003.

Thirdly, the European Security Strategy, adopted in December 2003, deals inadequately with human rights issues (ESS 2003). The primary focus of this strategy document is on the military aspects of crisis management, and on enhancing the capacity of the EU to intervene

militarily. As we indicate in Chapter 4, this capacity is important and necessary in some circumstances to prevent gross violations of human rights, and the document sets out some measures that Europe should take in the military and security field. But this needs to be balanced by increased investment in tackling the root causes of human rights abuse. These are underplayed in the strategy document. The document also ignores the extent to which EU member states may be contributing to human rights abuses through their own policies, for example on arms exports. Member states, the commission and the European Parliament need to identify areas of incoherence in their foreign, trade and international development policy, and consider how best to address them.

Fourthly, EU policy on human rights and development is undermined by its policy on trade and agriculture. EU agricultural subsidies through the Common Agricultural Policy are imposing huge burdens on poor farmers around the world, with many of them being put out of business by the dumping of agricultural subsidies. In 2002, the EU spent over $100 billion supporting its farmers, but devoted only $6.5 billion to development assistance (OECD figures, cited in Bercow 2004).

The UK Government should:

● Work for a stronger and more coherent EU policy on human rights, the mainstreaming of human rights across all EU policies, and a stronger EU common position in international forums.

● Use the upcoming EU Financial Perspectives to promote a reallocation of Commission development resources and set a target for 70 per cent of these resources to be allocated to the poorest countries.

● End EU agricultural subsidies and the dumping of agricultural surpluses on developing countries.

● Provide strong support to the Cotonou Agreement, ensure that the principles of good governance and human rights that underpin it are upheld and, where appropriate, push for targeted sanctions where breaches occur.

● Address the incoherence of EU human rights policy on issues like arms exports, through better systems of consultation between member states, the Commission and the European Parliament.

The Council of Europe and the Organisation for Security and Co-operation

The Council of Europe is a European body that plays an important role in protecting and promoting human rights. There are now 45 European state members of the Council and much of its current activity is focused on helping to build democratic institutions, the rule of law and freedom of expression. All Council member states are legally obliged to adhere to the terms of the Council's European Convention on Human Rights (ECHR), adopted in 1950. While some states fall below these standards, the mechanisms of the Council and the Parliamentary Assembly of the Council (PACE) are useful in holding governments to account. For example, PACE, which brings together national parliamentarians from across Europe, can send rapporteurs and make recommendations about the human rights situations in particular countries.

A product of the Cold War, the Organisation for Security and Co-operation (OSCE) came out of the Helsinki Conference in 1975, which sought to resolve areas of conflict between Western Europe and the former Soviet Union, and it established some agreed principles on human rights and democracy. It remains an important body today, bringing together 55 states from North America, Europe and Central Asia with the aim of promoting greater security and democratic governance. A key focus of its work is in helping countries to adhere to their OSCE and wider international obligations on human rights, including through OSCE missions. However, much more focus is needed in Russia and some of the other states of the former Soviet Union, where democratic processes remain extremely weak, and authoritarian and illiberal tendencies are on the increase.

A particularly valuable role is played by the OSCE High Commissioner on National Minorities. This post seeks to defuse tensions and potential conflicts within and between countries by better safeguarding the rights of minority communities, and it has done this with considerable success since it was established in 1992. The OSCE's Office for Democratic Institutions and Human Rights (ODIHR) also plays a critical role in election monitoring and in combating torture and human trafficking.

The UK Government should:

● Strengthen its support for the work of the Council of Europe on human rights, including the Parliamentary Assembly of the

Council of Europe, and ensure that the Council is much tougher in the conditions that it imposes upon applicant member states.

● Strengthen its support for the work of the OSCE on human rights, including the post of the OSCE High Commissioner on National Minorities, with a particular focus on promoting more effective democratic processes in Russia.

The Commonwealth

The Commonwealth is another important organisation through which the UK can and should pursue its international human rights objectives. A voluntary association of 54 sovereign states and 1.7 billion people, the Commonwealth accounts for 30 per cent of the world's population.

In 1991, Commonwealth member states agreed to the landmark Harare Declaration on human rights, democracy, the rule of law and good governance (Commonwealth 1991). In 1995, the Commonwealth Ministerial Action Group (CMAG) was established – a group of eight Commonwealth Foreign Ministers – to try to ensure that member states abided by the terms of the Harare Declaration.

Though many Commonwealth states are falling below the standards set out in this Declaration and in the UDHR, and while the Commonwealth has limited enforcement mechanisms, the organisation remains an important forum for raising human rights issues and for holding countries to account for their human rights performance.

As the case of Zimbabwe has shown, this will often be controversial and divisive. At the Commonwealth Heads of Government meeting (CHOGM) in Nigeria in December 2003, Commonwealth leaders finally agreed to maintain Zimbabwe's current suspension from the organisation (Zimbabwe then chose to withdraw). Given Zimbabwe's gross violations of human rights, not to have maintained its suspension would have seriously undermined the credibility of the Commonwealth. Indeed, there was a strong argument for expelling Zimbabwe from the Commonwealth, pending serious improvements in the human rights situation there.

The UK Government should:

● Continue to press for the Commonwealth to take a strong and consistent stand on human rights issues.

● Support the creation of a Special Adviser on Human Rights to the Commonwealth Ministerial Action Group (CMAG), to provide advice and guidance to the group on dealing with specific human rights situations. The adviser should be appointed by the Commonwealth Secretary General on the advice of the Chair of CMAG.

The African Union and the New Partnership for Africa's Development

Some of the world's biggest human rights challenges are in Africa, but Africans are taking some important steps to address these. The African Union has a Commission on Human and Peoples' Rights (ACHPR), established in 1998, to promote and protect human rights across Africa. The ACHRP examines human rights violations committed by governments and considers reports made by states under the African Charter on Human and Peoples' Rights. This is complemented by the work of the recently established African Court. The UK Government has supported and encouraged the development of these regional African institutions. However, further support is required from the UK, other governments and international organisations if these new institutions are to fulfil their potential.

The New Partnership for Africa's Development (NEPAD) has also made commitments in relation to human rights. Launched in 2001, NEPAD is an attempt by a group of African leaders to establish clearer national ownership and leadership of Africa's development efforts. It puts considerable emphasis on better governance, including greater observance of human rights, asserting that 'the expansion of democratic frontiers and the deepening of the culture of human rights' are to be a foundational element of the NEPAD (Amnesty International 2002). It is important that African governments should be held to account for these commitments and that they should be provided with the necessary resources and support to help implement them. It also important that countries like the UK provide increased support for the NEPAD initiative.

The UK has been an enthusiast for NEPAD and worked to encourage the G8 to draw up an African Action Plan in response to it. In February 2004, the UK Government established an independent

Commission on Africa. It is intended that the conclusions of the Commission's work will influence significantly the policy of the G8 and the EU in 2005, when the UK Government has the presidency of these bodies. (The IPPR will be doing a specific piece of work on African issues in 2004.[9])

The UK Government should:

● Provide increased support to the NEPAD initiative and to Africa's human rights bodies.

● Use the UK's Presidency of the EU and the G8 in 2005 and the work of the new Africa Commission to respond effectively to NEPAD, in particular through supporting the African Peer Review Mechanism (APRM), in monitoring progress on good governance.

● Support the work of the newly-established Peace and Security Council of the African Union.

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4. The responsibility to prevent, react and rebuild

If humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica – to gross and systematic violations of human rights that offend every precept of our common humanity?

Kofi Annan 2000

It is obvious, but worth stressing, that the debate on intervention is so passionate precisely because taking positions is so difficult, and all sides are conscious that human lives hang upon the decisions that are taken.

The International Council on Human Rights Policy 2002

This chapter argues that the UK and other governments need to rethink their approach to 'humanitarian intervention'. This has been defined as 'the threat or use of force across state borders by a state (or group of states) aimed at preventing or ending widespread and grave violations of the fundamental human rights of individuals other than its own citizens, without the permission of the state within whose territory force is applied' (Keohane 2003). The Blair Government has been a strong supporter of military intervention, with the UK having intervened militarily four times since 1997 – in Kosovo, Sierra Leone, Afghanistan and Iraq – and having used 'humanitarian' arguments, albeit inconsistently and to varying degrees, to justify these interventions. The UK Government has also made a significant contribution to the international debate around the ethics and efficacy of intervention, not least through Tony Blair's speech in Chicago in 1999 when he set out a 'doctrine of international community' and suggested new criteria for intervention (Blair 1999).

As the Iraq war illustrates, military interventions can be enormously controversial and divisive. Partly, this is because there are no agreed global rules about 'humanitarian intervention' to guide the international community in responding to individual situations as they arise and to judge the legitimacy and legality of intervention.

In many ways, the balance of international law is stacked against intervention. Most 'humanitarian interventions' that have taken place –

for example, Tanzania's invasion of Uganda in the 1970s to overthrow Idi Amin – did not have prior endorsement by the UN. Both supporters and critics of recent interventions disagree strongly over the practical effects of intervention, about the acceptability of the human costs of military action and about whether those interventions have made things better or worse in human rights terms. There is a debate, too, about whether interventions should be judged by the motives of the intervening powers or by their consequences.

The terrorist attacks on the US on 11 September 2001 and the US' declared 'war on terror' have added yet further fuel to the intervention debate. At one level, the appropriate response to terrorism would appear to raise a very different set of issues from those involved in the debate about intervention for human protection purposes. It is, however, unrealistic to think that the two debates can be kept separate. It seems likely in the future that the 'war on terror' will lead to more interventions justified publicly on partly humanitarian grounds. This raises fears in some quarters that humanitarian language will be cynically appropriated to justify interventions that are not motivated in the least by humanitarian concerns. These fears are heightened by the US National Security Strategy 2002 that enunciates a 'doctrine of pre-emption'.[10]

While these developments raise legitimate concerns, there are some valid reasons for thinking that the humanitarian debate cannot and should not be disentangled completely from the security one.

> As long as the chief motive for intervention is conscience alone, we can expect only sporadic action…Once it is realised that we are looking at a crisis in the international order…states that would otherwise remain uninvolved might understand that their long-term interest in stability and order compel them to commit resources to the problem. (Ignatieff 2002)

This chapter looks first at the human rights impact of some recent interventions in which the UK was involved: Rwanda, Bosnia, Kosovo, Sierra Leone, Afghanistan and Iraq. It considers the very important report produced by the International Commission on Intervention and State Sovereignty (ICISS): *The Responsibility to Protect* (ICISS 2001). Drawing on the work of the commission, the

chapter then considers in turn 'the responsibility to prevent', 'the responsibility to react' and 'the responsibility to rebuild'. It sets out some implications and recommendations for the UK Government, on issues like development policy, arms exports and the protection of human rights in post-conflict situations. Lastly, the chapter addresses the issues of political will and capacity to intervene on human rights grounds, and the importance of properly evaluating the humanitarian impact of past interventions.

The human rights impact of recent interventions

Rwanda

The most humiliating and shameful moment in the UN's history came in 1994 in Rwanda. And the shame lay in the failure to intervene and the decision to withdraw the small UN force already in the country. This unwillingness on the part of key members of the UN Security Council (including the UK) led to a preventable genocide and the loss of an estimated 800,000 lives in three months. The US, the UK and other governments were fully aware of what was unfolding in Rwanda. But they chose not to act, and even played down the scale of the killing for fear that an acknowledgement that genocide was occurring would create an obligation to intervene. While some (including Oxfam) denounced the passivity of the international response to the genocide, most were silent.

Bosnia

In Bosnia, the international community was very slow to respond to the scale of the ethnic cleansing being carried out there. Many saw the situation as a straightforward civil war, where all sides were guilty of human rights abuses and atrocities, and where external intervention beyond the provision of humanitarian aid was best avoided. For much of the time that international troops were operating in Bosnia, they did so with confused mandates, and with troops that were under-resourced and ill-equipped for the task in hand. It took the collapse of the UN-declared 'safe area' in Srebrenica in 1995 to shift opinion towards the adoption of a more forceful intervention strategy.

Kosovo

Military intervention was carried out in Kosovo in 1999 as a response to Serbian aggression and the ethnic cleansing of the Kosovo Albanians. The UK Labour Government was a strong supporter of this action. But many criticised the international legitimacy of the action in the absence of explicit UN authorisation. Others condemned the military tactics, including allied bombing of Serbian targets from 15,000 feet, with the consequent loss of many civilian lives. The effectiveness of the intervention is also disputed, with some arguing that the Serbian repression of Albanians has simply been replaced by a new reality: Albanian discrimination and violence directed at the small Serbian population still resident in Kosovo.

It is certainly true that the Serbian minority has been badly treated by the Albanian majority, and that this has taken place despite a very significant international military and administrative presence within Kosovo. Much more effective action is clearly still required to safeguard the human rights of minority communities living there. But the case for the UK's involvement in the intervention in Kosovo in 1999 is still a very powerful one in human rights terms. Over ten years, Slobadan Milosevic demonstrated beyond question a commitment to Serbian territorial expansion, to be achieved where necessary through violence, systematic rape and ethnic cleansing. Several hundred thousand people died as a result of this policy, and the unwillingness or inability of the international community to stop it. Given this record, it was right to belatedly draw a line in the sand and respond forcefully to Milosevic's attempts to ethnically cleanse Kosovo of its majority Albanian population.

Sierra Leone

The UK military intervention in Sierra Leone in 2000 is one of the few recent interventions that continues to command widespread international support (though because external assistance was requested by the Sierra Leone Government it might be said strictly to fall outside the definition of a humanitarian intervention). A brutal civil war in the 1990s had left half the country's 4.5 million people displaced, led to the loss of over 50,000 lives, with tens of thousands more people victims of

amputations and rape, mostly at the hands of the Revolutionary United Front (RUF). In February 2000, President Kabbah's government with the support of a UN force, UNAMSIL, was facing a serious challenge from the RUF, including the taking of 500 UN soldiers hostage. The formal justification for sending in British troops was to help secure the airport and to evacuate the expatriates. In practice, however, the British military intervention helped to reinforce the government's authority and destroyed any prospect of the RUF taking control of the country. The motives for the UK intervention were very largely humanitarian and the action was successful in maintaining the elected government of President Kabbah, stopping large-scale human rights abuses and preventing Sierra Leone from descending once again into full-scale civil war.

Afghanistan

Coming in response to the attack on the twin towers, the war on Afghanistan was initially widely supported internationally. The human rights record of the Taliban was not however a central motive for the intervention, although both the US and the UK were to use the human rights situation as a supporting justification for military action. Some condemned the US and UK and questioned the humanitarian cost of military action. The evidence suggests that more innocent Afghan civilians were killed as a result of the war on Afghanistan than died in the Al Qa'ida attacks of 11 September 2001.[11] Far more people died if we add in those who were killed indirectly from cold, hunger and disease while they fled the bombing, and those who have died subsequently from unexploded ordnance and the remains of cluster munitions. The way in which the US and UK intervention in Afghanistan has been carried out can also be criticised for strengthening the role of the Northern Alliance and other Afghan warlords, whose own human rights records are extremely poor.

However, despite real misgivings about the US motives and ongoing strategy towards Afghanistan, some form of military action following the attack on 11 September 2001 can be justified, and that action has brought some human rights benefits to Afghanistan, although at a high humanitarian cost. The overthrow of the Taliban, the reopening of schools for girls – forbidden under the old regime – and the establishment of a more representative government in Kabul are all very

important advances. While Afghanistan faces huge problems, the prospects for its people are better now than they were under the previous regime. The critique of policy towards Afghanistan today should have a different focus: the need to stay the course, expand the international security presence, help build credible and inclusive institutions, tackle Afghanistan's desperate poverty and weaken the power of the warlords. This approach would require a very significant shift in US strategy, which currently seems much more focused on attacking remnants of Al Qa'ida than on helping to rebuild Afghanistan.

Iraq

As was noted in Chapter 1, for human rights advocates, the arguments for and against military action towards Iraq were always complex and finely balanced. Saddam Hussein's human rights record was appalling and his removal and recent capture are very welcome developments that create the real possibility of a better future for the Iraqi people, including greater respect for human rights.

The UK Government's *official* line was not that the action should be taken because of Saddam Hussein's human rights record (for which a more powerful case could have been made in the late 1980s, particularly after the bombing of the Kurds at Halabja). Rather, they argued that it was the consistent failure of Saddam Hussein to comply with longstanding UN resolutions in relation to weapons of mass destruction that made military action both legal and necessary.

This argument has been very gravely undermined by the failure since the end of the war to uncover any weapons of mass destruction in Iraq, or even weapons programmes. The decision of the UK Government to set up an inquiry into the intelligence information surrounding WMD is a belated acknowledgement that serious mistakes were made. Contrary to their claims before the war, it is now clear that the threat from Iraq was not so great or so immediate as to justify the premature curtailment of the UN weapons inspection process, the acceptance of a US-imposed timetable for military action, and an internationally divisive war carried out in the absence of explicit UN authorisation.

If Hans Blix, former weapons inspector, had been allowed to finish his work, he could have concluded one of two things. First, that Iraq no longer appeared to have any weapons of mass destruction (very likely

given the failure to find any since the end of the war). This would have rendered the war unnecessary on the US and UK Government's terms. Alternatively, Blix could have concluded that he was being obstructed to such an extent by the Iraqi authorities that it was impossible for the UN inspectors to do their job. In these circumstances it is more likely that a second UN resolution would have been passed authorising military action. It is also possible that by fully engaging the UN system, rather than bypassing it, better preparations could have been made to address human rights and humanitarian issues following the overthrow of Saddam Hussein's regime.

This account of events suggests that US action was driven less by a concern for human rights, international law or the authority of the UN, and much more by a pre-determined and longstanding commitment to bring about regime change in Iraq. For the UK, the human rights record of the Iraqi regime was not a very decisive factor. The UK Government's decision to go to war with Iraq was heavily influenced, however, by the view that it would be dangerous for the world if the US were to take action unilaterally.

The legality of UK military action against Iraq continues to be open to serious question, with many international lawyers disputing its consistency with international law (*Guardian* 2004). In these circumstances, there is a powerful case for publishing in full the legal opinion of the UK Attorney General, so that the public, politicians and international lawyers can look at the evidence on which he based his claim that the war was lawful.

The International Commission on Intervention and State Sovereignty

How should we approach the issue of intervention for human protection purposes in this changed global context? What lessons can be learned from recent interventions in which the UK has been involved? When is it acceptable to intervene forcefully on human rights grounds, what kind of legal authority is required to legitimise intervention, what are the preconditions for interventions to be effective in human rights terms, and what are the consequences of non-intervention?

The most serious attempt to answer these questions in recent years is *The Responsibility to Protect*, the report of the International

Commission on Intervention and State Sovereignty. The commission was set up by the Canadian Government and it presented its report to the UN Secretary General in late 2001. While overshadowed by the events of 11 September 2001, the report is finding a steadily growing international audience and is now the subject of numerous conferences and roundtables, as well as informal debate in the UN Security Council and in the General Assembly.

The commission rejects the term 'humanitarian intervention', arguing rightly that this is to prejudge the issue in question, that is whether the intervention is in fact defensible in humanitarian terms. In its place, the commission proposes a reconceptualisation of state sovereignty – 'sovereignty as responsibility'. The commission asserts that 'sovereign states have the primary responsibility for the protection of their people from avoidable catastrophe – from mass murder, rape, starvation – but when they are unable or unwilling to do so, that responsibility must be borne by the wider community of states' (ICISS 2001).

The commission suggests that the responsibility to protect embraces three specific responsibilities. Firstly, a 'responsibility to prevent': to address both the root causes and direct causes of internal conflict and other man-made crises putting populations at risk. Secondly, 'the responsibility to react': to respond to situations of compelling human need with appropriate measures, which may include coercive measures like sanctions and international prosecution, and in extreme cases military intervention. Thirdly, 'the responsibility to rebuild': to provide, particularly after a military intervention, full assistance with recovery, reconstruction and reconciliation, addressing the causes of the humanitarian crisis the intervention was designed to halt or avert.

The responsibility to prevent

The commission is right to say that 'prevention is the single most important dimension of the responsibility to protect', that 'preventive options should always be exhausted before intervention is contemplated' and that 'more commitment and resources should be devoted to it' (ICISS 2001).

The primary responsibility for preventing human rights abuses and humanitarian crises rests, of course, with the sovereign governments within whose territory these abuses or crises are occurring. Effective
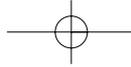
national policies to promote more inclusive and sustainable economic development, accountable government, protection of minorities and the rule of law can help to reduce the risks of armed conflict and ensure respect for human rights.

But the policies of developed countries like the UK can also impact very significantly, positively or negatively, on other countries' prospects for sustainable development and on the observance and realisation of human rights. The policies and resources of developed countries should be refocused and strengthened to help tackle some of these underlying causes of human rights abuse.

One issue often missing from the intervention debate is that of opportunity cost. We know that the Iraq war has already cost the US administration $103 billion and that the UK Government has spent over £3 billion.[12] There is a strong argument for saying that this money could be better spent – with greater overall humanitarian benefit – supporting long-term development or specific human rights initiatives in various countries around the world. While some military interventions are justified on humanitarian grounds, governments and international organisations should aim to shift resources decisively 'upstream': to invest in prevention and to tackle problems early before they have developed into full-blown crises, which are costly in financial and human terms.

Tackling poverty, promoting development

Many of the world's worst human rights violations and abuses are occurring in poor countries with weak political institutions. These countries are often described as 'failed' or 'failing states', or 'states at risk of failure' (Mepham and Maass 2004).

As was noted in Chapter 1, the UK Government has a generally good record on international development issues. However, there is real scope for improvement in respect of the UK's policies on aid, debt relief, HIV/AIDS, trade and investment. A particular priority should be tackling the problem of HIV/AIDS that is having a devastating impact on African systems of government. Huge numbers of the continent's most able people have contracted the disease or died from it, which is weakening still further the administrative capacity of many weak states.

The UK Government should:
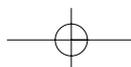
● Set a timetable for reaching the UN 0.7 per cent GNP/overseas aid target, and launch the UK's proposed International Finance Facility (IFF), if necessary unilaterally or in partnership with a couple of other countries.

● Use UK development resources to support democratisation and effective governance, the protection of the rights of minority communities, the rule of law, a free press and media, action against HIV/AIDS, a strengthening of progressive elements within civil society, and action against corruption. Organisations like the British Council, the Westminster Foundation for Democracy and the BBC World Service have an important contribution to make in these areas.

● Support deeper levels of debt reduction for countries with a proven track record of using the proceeds to fund higher spending on health, education, clean water and safe sanitation.

● Work for fairer trade rules for poorer countries, including through a reduction in tariff and non-tariff barriers to developing country exports.

Supporting direct prevention initiatives

In addition to addressing the underlying or structural causes of human rights abuses, developed countries and the wider international community have a role to play in supporting more direct prevention initiatives. This might involve political and diplomatic pressure, including the possible involvement of the UN Secretary General or regional organisations, fact-finding missions or the deployment of human rights monitors. It might also involve the use of targeted economic sanctions. The UK should work with other governments and the UN to refine the sanctions instrument, so that it puts pressure on errant governments rather than harming innocent civilians. Targeted sanctions might include: arms embargoes, ending military co-operation and training programmes, financial sanctions against the foreign assets of a country and restrictions on travel. In a limited number of circumstances it might be appropriate to deploy troops pre-emptively to deter the outbreak of hostilities, as occurred successfully with the UN Preventative Deployment Force deployment in Macedonia.

Government should also assist with security sector reform, working with countries to ensure that the security sector is appropriately structured and trained, and subject to proper civilian authority and control.

The UK Government should:

- Work to strengthen significantly the international commitment to conflict prevention, working with other governments, the UN system, the EU and regional organisations.

- Work with other governments and the UN to develop smarter sanctions, able to target and pressure elites without imposing heavy humanitarian costs on ordinary people.

- Provide increased support for security sector reform.

Controlling weapons transfers

Developed countries, including the UK, can also directly contribute to human rights abuses in other countries through weak or ineffective controls over weapons transfers. Despite some positive changes to arms policy since 1997, the UK Government's overall policy has been a serious disappointment and it is getting worse not better. Since 11 September 2001, arms have gone to countries that support the 'war on terror' (Mepham and Eavis 2002). This is reflected in some real contradictions between the Government's declared commitments on human rights and its policy on arms exports to particular countries, as recorded in the *UK Annual Report on Strategic Export Controls*. The 2003 Report shows that the UK has continued to supply arms and military equipment to countries with poor human rights records, like Colombia, Indonesia, Saudi Arabia, India and Pakistan, although the record of these same countries is criticised in the *FCO Annual Human Rights Report* (FCO 2003b).

Despite the passage of the Export Control Act (2002), the Government has also failed to introduce adequate controls over UK arms brokers and traffickers. Many of the weapons feeding conflict and human rights abuses in Africa and elsewhere are being supplied by arms brokers, but UK controls will do little to curb the activity of UK nationals involved in this trade. Despite a manifesto pledge to 'control the activities of arms brokers and traffickers wherever they are located'

the Government has backed away from comprehensive controls (www.labour-party.org.uk).

The Government has extended controls over arms brokers but only in limited circumstances. The new regulations mean that brokering conventional weapons to destinations not subject to a UN embargo will require a licence only where part of the deal takes place in the UK. As a result, UK dealers can continue to transfer weapons to countries that violate human rights or threaten regional stability (but where no embargo is in place) simply by going across the Channel to conduct their arms brokering deal.

There is a particular need to take tougher action to deal with the proliferation of small arms and light weapons which have contributed to death, injury and human rights abuses in countless countries across the world.

The UK Government should:

● Not allow the need to take action against terrorism to weaken its arms export controls, particularly in relation to human rights.

● Introduce a 'presumption of denial' for arms exports towards an agreed list of countries of concern, including countries where there are concerns about human rights.

● Implement its manifesto commitment and introduce full extra-territorial controls over UK arms brokers and traffickers.

● Support the establishment of stronger international controls over weapons transfers, including updating of the EU Code of Conduct on Arms Exports, agreement on a new International Arms Trade Treaty and a strengthening of controls over small arms at the 2006 UN Small Arms Conference.

The responsibility to react

A commitment to universal human rights implies a responsibility to react in situations where these human rights are being violated and abused. In most circumstances, the appropriate reaction of the international community will not involve the use of military force. But in extreme cases, military intervention may be the only means left for preventing or ending massive human rights violations. One of the

critical issues of course is how bad a situation has to be to warrant military action. The Commission suggests that all the relevant decision-making criteria can be summarised under the following six headings: 'right authority, just cause, right intention, last resort, proportional means and reasonable prospects' (ICISS 2001). Each of these issues is addressed in turn.

Right authority

The commission states that 'there is no better or more appropriate body than the United Nations Security Council to authorise military intervention for human protection purposes...Security Council authorisation should in all cases be sought prior to any military intervention being carried out' (ICISS 2001).

One of the reasons that military action against Iraq was so unpopular internationally was precisely because the US and UK governments chose not to do this. They went to war without explicit UN authorisation, referring back to previous resolutions when they could not gain the necessary support for a new UN resolution authorising military action.

However, the question of UN authority for interventions is not unproblematic. The existing composition of the Security Council, particularly that of the five permanent members, is unrepresentative. There is also an issue about the democratic credentials of some Security Council members, and whether the legitimacy of intervention should be dependent on the votes of countries that deny democratic elections to their own people.

Alongside Security Council reform, there is a case for an amendment to the UN Charter making more explicit the legitimacy of intervention on human protection grounds. While there is little prospect of this being agreed to in the short term, it should be an important long-term objective for those committed to human rights.

There is a critical issue, too, about the consequences of the UN not responding when faced with grave human rights violations. As the commission puts it, 'If the Security Council fails to act in conscience-shocking situations crying out for action then ad hoc groups of countries are unlikely to rule out action themselves and the stature and credibility of the UN may suffer thereby' (ICISS 2001).

It is in large part to consider this issue, and to rebuild the credibility of the UN as an actor on security issues following the Iraq war, that Kofi Annan has set up a new high-level panel. The panel will consider *Threats, Challenges and Change,* and is focused on strengthening the UN's contribution to international peace and security.

The UK Government should:

- Support an amendment to the UN Charter making more explicit the legitimacy of intervention on human protection grounds.

- Provide strong support to the work of Kofi Annan's new panel of experts considering *Threats, Challenges and Change* and consider what further measures can be taken to strengthen the UN's role in relation to international peace and security.

Just cause

In the commission's view, military intervention for human protection purposes is justified in two broad sets of circumstances:

> to halt or avert: 1) large scale loss of human life, actual or apprehended, with genocidal intent or not, which is the product either of deliberate state action, or state neglect or inability to act, or a failed state situation; or 2) large scale 'ethnic cleansing', actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape. (ICISS 2001)

The most controversial issue in these proposals is that of anticipatory or pre-emptive military action. While it is right to be generally very sceptical about such action, a commitment to human rights cannot exclude this option in all circumstances. Without this possibility of anticipatory action, the international community would be placed in the ethically untenable position of being obliged to wait for massive human rights abuses to occur before taking action to stop them. Having said this, the US and UK-led action in Iraq, and the inaccuracy of the intelligence information used to justify this action, will make it far harder in the future to gain the necessary public support for pre-emptive interventions on human protection grounds.
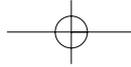
Right intention

While governments have many and often mixed motives for foreign policy actions, it is important that humanitarian objectives should be the primary reason for intervention if that intervention is to have a reasonable chance of delivering a humanitarian outcome. An intervention carried out with right intentions is much more likely to involve the necessary pre-war planning for the post-war period. An intervention is also much more likely to be well intentioned if it takes place with widespread international support and with the authorisation of the UN Security Council.

Last resort

In advance of military intervention, every reasonable diplomatic and non-military option for the resolution of the humanitarian crisis should have been explored. It is only in these circumstances, and faced with a massive humanitarian crisis, that intervention may be justified. The Iraq war clearly fails this test with the US and UK governments unwilling even to allow time for the UN weapons inspectors to conclude their work before they embarked on military action.

Proportional means

The commission states that 'finding a consensus about intervention is not simply a matter of deciding who should authorise it and when it is legitimate to undertake. It is also a matter of deciding how to do it so that decent objectives are not tarnished by inappropriate means' (Ibid: 5). This is a crucially important point and its implications for the UK and other countries are far-reaching. UK forces involved in military intervention need to adhere to international humanitarian law, of course. But they have wider responsibilities towards people in the countries in which they intervene.

Neither in Iraq nor Afghanistan has the UK Government been prepared to estimate the number of civilians and military personnel killed or injured as a consequence of the coalition military action, nor has it provided a satisfactory argument for why this should not be done. Without these statistics, it is difficult to judge whether military

action has been proportionate. Independent estimates suggest that there may have been as many as 9,000 civilian deaths in Iraq as a consequence of coalition military action, and nearly 15,000 civilians injured (www.iraqbodycount.net). These independent assessments undermine Government claims that recording the number of casualties is too difficult to do. This claim is also undermined by the experience of 11 September 2001 where the US authorities rightly went to great lengths to record the number of people killed in the attack on the twin towers.

Intervention for human protection purposes should involve extensive responsibility for ordinary people living in the country concerned, on whose behalf and in whose interests these interventions are supposedly being carried out. This means that extra care must be taken to minimise both civilian casualties and injuries, as well as damage to the country's infrastructure. This also suggests the need for a 'new doctrine of military operations for intervention for human protection purposes', which would define new rules of military engagement. It requires further developments to international humanitarian law and tighter controls over weapons like cluster munitions that have caused very significant civilian casualties in recent conflicts.

In the last ten years, two categories of weapons – anti-personnel landmines and blinding lasers – have been banned outright, with the international community judging that the military utility of these weapons was outweighed by their extensive humanitarian costs. Cluster munitions – large weapons that open in mid-air and scatter smaller sub-munitions over a wider area – stand out today as the weapon category most in need of tighter national and international controls to protect civilians during armed conflicts.

Of course, cluster munitions have military utility, which is why the US and the UK used them extensively in the Gulf War, Kosovo, Afghanistan and Iraq. The military values cluster munitions because they can hit targets over a wide area. They are used, for example, in attacking targets like airfields and surface-to-air missile sites. They are also effective against targets that move or do not have precise locations, such as enemy troops or vehicles.

But cluster munitions also have very significant humanitarian costs, and their use is often disproportionate and indiscriminate. 'When submunitions fail to explode as expected, the 'duds' usually remain

hazardous and will explode when touched, thus becoming de facto anti-personnel landmines' (Goose 2004). This is a particular problem with the older types of cluster munitions.

> Although other types of unguided bombs can miss their target, the humanitarian effects of a cluster attack are also more serious because of the number of submunitions and their wide dispersal… If cluster bombs are used in an area in which there are combatants and civilians, civilian casualties are almost assured…The impact can go beyond needless civilian casualties, as extensive submunition contamination can have far-reaching socio-economic ramifications, hindering post-conflict reconstruction and development. (Goose 2004)

The US and the UK dropped nearly 13,000 cluster munitions, containing an estimated 1.8 to two million submunitions, during the three weeks of major combat operations in Iraq. As Human Rights Watch has shown, on the basis of detailed investigations of Iraqi hospital records, cluster munition strikes, particularly ground attacks on populated areas, were a major cause of civilian casualties. 'Although the US and the UK both used new types of more technologically advanced cluster munitions in Iraq, they also continued to use older types known to be inaccurate and to have high failure rates' (Goose 2004).

Intervention on human rights grounds should also involve responsibility for the families and dependants of those killed or injured as a result of the military intervention. In the US, compensation payments have recently been made to the families of Iraqi civilians killed as a consequence of US military action that was judged 'negligent' (McCarthy 2003). The UK Government has also revealed that compensation payments will be made to a handful of Iraqi families as a result of negligent action by UK troops (Ananova News 2003). There is a case for seriously considering the introduction of a more structured and comprehensive system of compensation payments for civilians injured as a result of UK military action and for the dependants of those civilians who were killed. In a domestic context, even if police action is lawful and proportionate (for example, in dealing with a hostage situation), compensation would be paid to innocent people killed as a consequence of that action. It is not immediately clear why it should be

different when the innocent people killed as a consequence of 'our' actions live in another country. The legal, ethical and practical issues involved should be considered as a matter of urgency.

The UK Government should:

- Work with other governments, NATO, the EU and the UN to develop a 'new doctrine of military operations for human protection purposes'.

- Work for an international moratorium on the use of cluster munitions until the humanitarian problems associated with the weapons have been addressed adequately (through the adoption of more advanced and accurate technologies with high reliability rates, the introduction of self-destruct mechanism when cluster munitions do not explode on impact, the destruction of old stocks that do not meet this standard, and through very tight controls over the circumstances in which they can be used).

- Work for a global agreement, set out in a new international legal instrument, to ban the use of cluster munitions in populated areas.

- Press for increased international resources to tackle the problems of unexploded cluster munitions and other explosive remnants of war, and, while cluster bombs are still used, make the users accept full responsibility for removing them in the aftermath of conflict.

- Record and publish the number of people killed or injured as a consequence of their military action in Iraq and Afghanistan.

- Consider the introduction of a more structured and comprehensive system of compensation payments for the families and dependants of Iraqi and Afghan civilians killed as a result of UK military action.

Reasonable prospects

The commission states that 'Military action can only be justified if it stands a reasonable chance of success, that is, halting or averting the atrocities or suffering that triggered the intervention in the first place'

(ICISS 2001). Even if all the other criteria were met, it would be wrong to proceed if there was real doubt over whether a military intervention would make things better in human rights terms.

The responsibility to rebuild

In those circumstances in which interventions are judged legitimate on human rights grounds, it is vital that the intervening powers have a clear and effective post-intervention strategy.

In the majority of recent military interventions, most obviously Iraq, there has been no such strategy. The humanitarian and human rights consequences of this have been disastrous. The UK Government's record on this is better than that of the US administration, but the UK must also take its share of the blame for the sheer inadequacy of post-war preparations for Iraq.

There are four general lessons that can be drawn from the Iraq experience, which have wider application and relevance.

Firstly, one of the top human rights priorities following an intervention is the restoration or establishment of basic security. A major obstacle to faster political, institutional and development progress in Iraq following the overthrow of Saddam Hussein has been the insecurity in large parts of the country. This has been exacerbated by the influx of extremists groups from other parts of the Islamic world, but this is precisely the kind of development that good pre-war planning should have anticipated and made preparations for.

One of the most difficult security issues now facing the occupying powers in Iraq, and common to most post-intervention situations, is that of disarmament, demobilisation and demilitarisation of local security forces and the creation of a new army and police force. For the intervening powers, this means a serious commitment to security sector reform, helping to create a new security force subject to proper civilian authority and control. It should also mean efforts to help remove small arms and other weapons from circulation.

Secondly, there is a need to put in place basic institutions. This includes accountable political institutions, a properly functioning judicial system, a free press and media, and proper human rights safeguards for vulnerable groups, particularly for women and minority communities.

Thirdly, it is important to demonstrate to local people some real dividends from intervention, through restoration of the economy and the delivery of basic services, such as health, education, clean water and safe sanitation, and power supplies. If people feel they have no stake in the system, there is a real danger that society will slip back into violence and conflict, with very adverse consequences for human rights.

Fourthly, the intervening powers need to secure legitimacy in the eyes of the international community and local people, and to make clear preparations for the transfer of authority to legitimate local institutions. This issue has been particularly problematic in Iraq, where the US and UK are viewed with suspicion and hostility by sections of the Iraqi population.

One of the critical issues is how long intervening powers should stay. The glib answer is: as long as necessary and no longer. But judging what this means in individual contexts is very difficult. As the commission puts it, 'The long-term aim of international actors in a post-conflict situation is to do themselves out of a job…the responsibility to rebuild, which derives from the responsibility to react, must be directed towards returning the society in question to those who live in it' (ICISS 2001). Another lesson from Iraq is that the UN is better placed than either the US or the UK to do this. The recent attempts by the US to get the UN involved in overseeing the transitional arrangements, including the holding of Iraqi elections, suggests a belated recognition of this on the part of the Bush administration.

The UK Government should:

- Work for stronger international commitment to the protection of human rights in post-intervention situations, with support for the necessary institution building and specific safeguards for the rights of women and minority communities.

- Ensure that the UN has a major role to play in such circumstances, drawing on its experience and greater international legitimacy.

Political will, evaluation and capacity

The six criteria suggested by the commission are well chosen, but as has been shown they do not remove the need for political judgement in each individual case, and individuals will reach different conclusions about

when and where it is appropriate to use military force on human rights grounds. It is interesting, for example, that of the 12 members of the International Commission on Intervention and State Sovereignty, only one – Michael Ignatieff – used the arguments in the Commission's report to justify war with Iraq. The others were opposed. Commission members were also divided over the legitimacy of military action in Kosovo.

These disagreements about real cases – despite considerable common ground over principles – illustrates the complexity of the ethical and practical judgements involved. The divisions over recent interventions also underscore the importance of properly evaluating the human rights impact of these interventions. While every case is different, policy makers making decisions about future interventions on human rights grounds should do so with as much information and analysis as possible of the results of previous interventions.

The UK Government should:

●   Establish an independent evaluation of the humanitarian impact of the military interventions in Kosovo, Sierra Leone, Afghanistan and Iraq.

Another critical issue in the intervention debate is that of capacity: even where countries decide that intervention is required on human rights grounds, they should know whether they have the military and non-military capacity to carry out an effective intervention and to follow it through successfully. The reality is that very few countries have this capacity. As it showed in Sierra Leone, the UK has the capability to intervene in very small countries. But it is only the US that currently has the capacity to undertake military interventions in places like Kosovo and Iraq. The role of the UK in both Kosovo and Iraq was very clearly a subordinate one alongside the US.

This report has already indicated that intervention raises important issues about opportunity cost, and recommended that more resources should be shifted upstream to tackle the underlying causes of human rights abuse. But if it is accepted that intervention for human protection purposes will sometimes be needed, then those who advocate it must also provide the necessary military and non-military resources and capacity.

For the foreseeable future, the US will remain the world's strongest military power by a very long way. If that power is to be used in a

constructive way it is important that the UK try to influence the US, by remaining a close ally, not least through NATO. But that alliance should not exclude criticism of US foreign policy when it is in error. In recent years, the UK Government has shown a very worrying reluctance to criticise US foreign policy, even when it is running counter to UK government policy, for example in relation to the Israeli/Palestinian conflict.

Within the EU, the UK Government should also make the case for a stronger EU common foreign and security policy (in a way that is consistent with NATO), and for the EU to develop greater capabilities to intervene, where necessary, on humanitarian grounds. This was a particular focus of the European Security Strategy *A Secure Europe in a Better World*, agreed by EU member states in December 2003. This rightly says that, 'Europe should be ready to share in the responsibility for global security…and if we are make a contribution that matches our (Europe's) potential, we need to be more active, more coherent and more capable' (EES 2003).

The UK Government should:

- Work with the US to encourage them to have a more constructive approach towards humanitarian issues and issues of intervention, and a greater commitment to the principles of international humanitarian law.

- Support a significant strengthening of the EU Common Foreign and Security Policy, including enhanced capabilities for intervention on human protection grounds.

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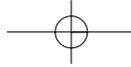
5. Conclusion

This report has asserted that the changed global security environment reinforces the case for strengthened national and international commitments to human rights, by governments, international institutions and non-state actors, not least the corporate sector.

It has drawn three broad conclusions:

● Firstly, that to maximise the benefits of private investment and to secure public policy goals including respect for human rights, global business needs to operate within a clearer legal and regulatory framework. Having secured a reputation for prudent economic management over the last seven years, the Labour Government should be much more self-confident about making the case for a changed relationship with the business sector, one in which corporate rights are matched by a stronger set of global corporate responsibilities

● Secondly, that strong support for multilateralism needs to be matched by an honest assessment of the weakness of some existing multilateral institutions and a serious commitment to reform them, however difficult that reform process will be. As a permanent member of the UN Security Council, and as a leading member of many other international organisations, the UK is well placed to make the case for reform, to strengthen their overall contribution to the protection and promotion of human rights. The UK is also well placed to help enhance the contribution of the EU to the protection and promotion of human rights around the world, particularly through a strengthened EU Common Foreign and Security Policy.

● Thirdly, developed countries, like the UK, need to focus much greater attention on conflict prevention, using development policy and diplomacy to tackle problems 'upstream' before they have developed into full-blown humanitarian crises. Harnessing the power of the private sector for human rights objectives and strengthening the role of international organisations – the focus of Chapter 2 and 3 – are good examples of preventive strategies. However, developed countries also need to put their own house in order, looking at the extent to which their policies on issues
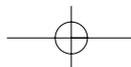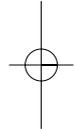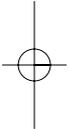
like arms exports or trade may be contributing to human rights abuses in other countries. In those exceptional circumstances where interventions on human rights grounds are judged necessary, considerably greater care needs to be taken to minimise harm to civilians, for example through limits on the use of cluster munitions. Intervening powers also need to make human rights a more mainstream concern in their support for post-conflict reconstruction and peace building.

The recommendations set out in this report are largely directed at the UK Government, although there is much here that is relevant to other governments, in the EU and elsewhere, international organisations, the private sector and human rights NGOs. The UK will make considerably more progress on some of these issues if it works in partnership with others.

Over the next two years, there is real scope for the UK to take forward some of these ideas. In 2005, the UK has the presidency of the European Union and the G8. This report argues that the UK should seize this opportunity to strengthen the commitment of key countries to the protection and promotion of human rights across the world, something that is both morally right and in our common interest.
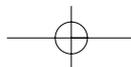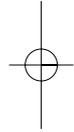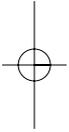
Endnotes

1   The 'human rights' referred to in this report are those set out in the UN Declaration on Human Rights and the other relevant international human rights agreements.

2   *United Nations Millennium Development Goals 2000*, available at www.un.org/millenniumgoals.

3   For further information, contact the Migration and Equalities Team at the IPPR, or see their webpage at www.ippr.org/research.

4   United Nations Security Council (2003) Resolution 1457, available at www.un.org/Docs/sc/

5   Anti-Terrorism, Crime and Security Act (2001), Part 12, Bribery and Corruption, Cl109

6   Connelly vs RTZ Corporation Plc [1996] 2 WLR 251; Ngcobo and Others vs Thor Chemicals Holdings Ltd and Others (Times Law Report 10.11.95); Connelly vs RTZ Corporation Plc (1WLR 340); Connelly vs RTZ Corporation Plc and Another (1997 3 WLR 373); Lubbe vs Cape Plc (1998 CLC 1559); Lube vs Cape Plc (2000 CLC 45); Sithole and Others vs Thor Chemicals Holdings Ltd and Another (Times Law report 15.2.99); Lubbe and Others vs Cape Plc (2000 1WLR 1545); Afrika and Others vs Cape Plc (TLR 14.1.02)

7   For further information see www.un.org or http://web.amnesty.org/library/Index/ENGIOR4200/2004.

8   The two EU directives dealing with social procurement, both finally adopted in January 2004, are:

    a) Directive of the European Parliament and of the Council on the co-ordination of procedures for the award of public supply contracts, public service contracts and public works contracts. COM (2000) 275 final/2.30 August 2000; and

    b) Directive of the European Parliament and of the Council co-ordinating the procurement procedures of entities operating in the water, energy and transport sectors. COM (2000) 276 final/2.31 August 2000.

9   For further information see http://www/wjotejpise/gpv/nsc/nss.html

10 For further information, contact the International Team at the IPPR, or see their web page at www.ippr.org/research.

11 According to Unknown News 3,291 Afghan civilians and a further 5,924 seriously injured by December 2003, for further information see www.unknownnews.net.

12   Estimated cost of Iraq war for the US Government was
$103,214,815,999.00 and rising (27.2.04), see www.costofwar.com;
www.constanzo.org/Rex/Commentary. The total cost of the war on
terror has been put at £5.5 billion by Gordon Brown, and at least £3
billion of that was spent on Iraq. See Press Association (05.12.03)
Yesterday in parliament: Special report http://politics.guardian.co.uk/
commons/story/.

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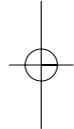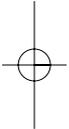
Appendix: International Human Rights Conference

25 November 2003

IPPR and the British Council held a major one-day international human rights conference on the 25 November 2003. Foreign Office Minister Bill Rammell MP gave the keynote speech and Michael Ignatieff, Director of the Carr Centre for Human Rights Policy, also spoke on the issue of ethical globalisation. Other speakers and key participants were Jody Kollapen (South African Human Rights Commission), Ian Martin (International Centre for Transitional Justice), Robin Aram (Shell International), Frances O'Grady (Trades Union Congress), Yahia Said (LSE), Kate Allen (Amnesty International), Mike Gapes MP, George Alagiah (BBC), Françoise Hampson (Essex Human Rights Centre) and Kevin Boyle (Essex Human Rights Centre).

The conference addressed three key areas, which paralleled the priorities of this report; 'human rights, institutional reform and capacity building', 'the private sector and human rights' and 'intervention and human rights'. It was widely attended by representatives from government, the private sector, academia, the media and non-governmental organisations.

For further information, including background papers, a list of delegates and a summary of the discussion, please visit the IPPR website at www.ippr.org/research.

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