

CHAPTER ONE

THE INQUIRY

Background to the inquiry

1.1 Promotion of Australia's regional dialogue on human rights was the subject of this Committee's consideration in its 1994 report entitled *A Review of Australia's Efforts to Promote and Protect Human Rights*. That report concluded that there were significant gaps between the theory, in terms of the array of international covenants and conventions which define human rights internationally, and the actual practice, the implementation of those rights, which remains very poor in many parts of the world.

1.2 In its 1994 report the Committee recommended, among other things, that the avenue of regular ministerial meetings of relevant foreign ministers and contact with national human rights commissions of countries in our region should be explored, in order to develop dialogue. That recommendation was accepted by the then government in its response to the Committee's report. The Committee concluded early in 1997 that an update of regional human rights arrangements and the issue of improving regional dialogue was timely.

1.3 The formal mechanism for undertaking this inquiry was as a review of the *Third Report by the Department of Foreign Affairs and Trade: The Australian Government's International Human Rights Policy and Activities 1994-1995* tabled in Parliament on 19 September 1996. On 4 March 1997 the Committee adopted the specific terms of reference for this inquiry. Unlike the wide-ranging scope of the Committee's 1994 and 1992 inquiries, which were reviews of Australia's efforts to promote and protect human rights worldwide, this inquiry was to focus on the issue of regional dialogue on human rights.

Inquiry process

1.4 The terms of reference for the inquiry were advertised on 24 May 1997 in major Australian newspapers. Submissions were to be made by 15 August 1997. In addition, letters seeking submissions were sent to Australian academic institutions, human rights organisations in Australia, relevant federal departments, and, bearing in mind the range of the terms of reference, to human rights bodies in the region. Submissions to the inquiry were received mainly from residents of the eastern states of Australia but some were from Hong Kong and Japan.

1.5 The Committee held its first public hearing in Canberra on 24 November 1997. Further public hearings were held in Canberra on 30 March, and 6 and 16 April 1998. The Committee also held public hearings in Sydney on 4 and 5 February 1998 and in Melbourne on 17 February 1998.

Definitions

Dialogue

1.6 'Dialogue' suggests the participation of two parties in communication. This style of communication has been described as 'more pointed than a discussion, less heated than an argument, less formal than a debate. It is used to describe the establishment of wary communication between divergent groups...'¹

1.7 The Committee's interpretation is more broad, and less cynical than this. For the purposes of this report, dialogue has been taken to include formal exchanges of ideas and positions on the general issue of human rights, whether by way of delegations or ministerial visits, as well as the raising of individual human rights cases and situations with the representatives of other countries. The latter style of dialogue involves communication that may not be two-way. As a result, not only its characterisation as dialogue, but also its effectiveness in terms of communication, may be questioned.

Region

1.8 So that the scope of the Committee's discussion is clear, the region has been taken to include South East Asia (Brunei, Burma, Cambodia, Indonesia, Laos, Malaysia, the Philippines, Singapore, Thailand and Vietnam), North Asia (Japan, China, North Korea, South Korea), South Asia (Sri Lanka, India, Pakistan, Bangladesh, Nepal, Bhutan, Afghanistan) and the South Pacific. While evidence was not received in respect of each country in the region, much of the evidence received, and conclusions formed, apply broadly to the Asia Pacific region.

Report structure

1.9 The report structure follows the terms of reference. The second chapter canvasses the current debate on the way in which human rights is being interpreted, including discussion on interpretation of the standards set out in the Universal Declaration of Human Rights (the Declaration)² and the instruments which were intended to give effect to that Declaration, the International Covenant on Civil and Political Rights (ICCPR)³ and the International Covenant on Economic, Social and Cultural Rights (ICESCR).⁴

1.10 The second chapter discusses the universality and indivisibility of human rights, as well as the argument that international human rights instruments should be considered in the light of 'Asian values'. The 'Asian values' approach gives priority to economic and social rights over civil and political rights, with states resenting criticism of their internal affairs. Despite an affirmation at the World Conference on Human Rights in 1993 that 'All human

1 Safire, W, *Safire's New Political Dictionary*, New York, 1993.

2 Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948.

3 Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966.

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rights are universal, indivisible and interdependent and interrelated',⁵ some leaders argue that the West is preoccupied with individual rights rather than community rights and duties.

1.11 The third chapter discusses the role that human rights has assumed in Australia's relations with its regional neighbours and the approach taken by the Australian government in pursuing the promotion and protection of human rights. It also discusses the place given to human rights in Australia's foreign policy, including its relationship with trade, as well as the government's approach to 'realistic goals'. The means by which Australia undertakes its human rights dialogue—bilateral, multilateral and regional—are also described briefly.

1.12 Chapter Three concludes with a brief examination of human rights in the context of Australia's development assistance policy. A substantial part of the evidence on government human rights activity refers not just to the present government, but reaches back over the last five to ten years.

1.13 Chapter Four provides a survey of Australia's human rights dialogue with many of the countries in the region. As this inquiry emphasises dialogue, the human rights situation in these countries is not canvassed, other than in summary form and to place the review of dialogue and human rights activities in context.

1.14 A consideration of the place of human rights in debates on the security and stability of the region is the basis of Chapter Five. The Asian crisis, with its ensuing social unrest and increased vulnerability for some groups in our region is also considered, particularly in terms of its implications for regional security. The human rights implications of Australia's security co-operation in the region, especially with respect to Indonesia is also considered in this chapter.

1.15 Chapter Six provides an analysis of the level of ratification of the United Nations (UN) treaties in the region and the impact this has on those groups which are regarded traditionally as being the focus of international human rights instruments. In terms of the international human rights framework, clearly the greater issue is implementation and realisation of the objectives of those treaties, rather than the formal acceptance of responsibilities.

1.16 Chapter Seven provides an overview of the effectiveness of Australia's dialogue, including the processes by which that dialogue is undertaken currently, as well as the institutions which play a role in those processes. The major role played by non-government organisations (NGOs), and the reach of the issue of human rights into the business community, and the wider community is also canvassed. The chapter concludes with some measures which the Committee considers have a real potential to improve our dialogue on human rights in the region.

5 *Vienna Declaration and Programme of Action*, Part 1, paragraph 5; United Nations General Assembly document A/CONF.157/23 of 12 July 1993.

