

# **Inquiry into the link between aid and human rights**

## **Introduction**

Australian Lutheran World Service (ALWS) is the overseas aid agency of the Lutheran Church of Australia. It was established in 1950 and currently supports development projects in Cambodia, Mozambique, Nepal and Liberia. ALWS also supports emergency relief projects including over the past twelve months floods in Mozambique and Cambodia; displaced bonded-labourers in Nepal; and most recently the earthquake in India. In addition ALWS has also had a strong commitment to the plight of refugees in countries such as Kenya and Nepal.

The Australian government through AusAID has been a significant funding partner to ALWS. This support has greatly enhanced our capacity to support programs that advance the fulfillment of human rights. The commitment by the government and AusAID to achieving human rights objectives is clearly acknowledged. Our interest in putting a submission to the inquiry is to encourage the government to further enhance its commitment to meeting international human rights standards through a rights-based approach to the aid program.

The ALWS submission does not intend addressing all aspects of the inquiry, but instead focuses on the following:

- Rationale for a rights-based approach to the aid program;
- Activities related to the bilateral program;
- Regional Programs;
- Emergency and Humanitarian Assistance;
- Project Aid; and
- Debt Reduction

## **The link between aid and human rights**

The Australian government has stated that the objective of the overseas aid program is: "To advance Australia's national interest by assisting developing countries to reduce poverty and achieve sustainable development." ALWS acknowledges government statements endorsing a strong focus on human rights and that they are vital elements for sustainable development. More generally the official view appears to hold that the aid program provides a framework for the pursuit of human

rights. ALWS welcomes this as a genuine effort to integrate human rights with the aid program.

However, it is considered this does not adequately reflect the primary place the promotion and protection of human rights has assumed in the international system. The Australian Lutheran World Service (ALWS) submission is based on Australia's specific commitments to the existing international human rights instruments and broader obligations as a member of the international community. ALWS understands these instruments and obligations to represent:

- A comprehensive and internationally accepted definition of human dignity and the elements required for a life of well-being;
- A framework that articulates the promotion and protection of human rights as a primary duty of states and the international community, and that is not subordinated to other interests; and
- A framework that, by and large, has the status of international law and is binding upon states.

Based on this understanding the aid program is not a tool in the pursuit of Australia's national interest, but an obligation and duty that flows from the universality of human rights and the duty of international cooperation for the realisation of human rights. And the aid program is not a vehicle that pursues human rights insofar as they do not conflict with other priorities, but is defined and shaped by the rights and entitlements held by individuals and communities. In other words, ALWS considers that the aid program should not simply be identifying the link between aid and human rights, but viewing human rights, as expressed in the international human rights instruments, as a comprehensive framework for the aid program.

This view is underpinned by the following principles that are applied to the aid programs supported by ALWS:

- The enjoyment of all human rights represents the ultimate goal of development;
- Development objectives are also human rights objectives;
- Respect for human rights is a necessary precondition for development; violations of human rights endanger development achievements;
- The promotion of human rights, especially rights of participation, strengthens development;
- An emphasis on human rights in the context of development helps to focus attention on the structural inequities that cause and maintain impoverishment and exclusion;
- Human rights obligations are legally binding, and their application in the context of development can therefore strengthen development initiatives;

- A human rights situational analysis is a valuable element of the planning phase for development programs; and
- Reflecting the principle of universality of human rights, development activities should be designed to promote systemic change, providing benefits for the community as a whole, rather than resulting in 'islands of development'.

### **Human Rights and Bilateral Programs**

A majority of Australia's aid program is implemented on a bilateral government-to-government basis. This is consistent with the government's principle of focusing on partnerships with developing countries. The basis of negotiating the aid program with these nations should be the achievement of human rights objectives as defined by the international human rights instruments. However, ALWS would reject the view that this should be reflected in the subjective imposition of a human rights conditionality on Australia's aid to developing countries. We consider that this approach is counterproductive to establishing real partnerships and to promoting a universal human rights culture. ALWS is arguing that the human rights instruments provide an internationally agreed framework for negotiating a bilateral program because of their universal and legally binding nature, and because of their coverage of economic, social and cultural issues as well as civil and political issues. Furthermore the Declaration on the Right to Development confirms that "states have the right and duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals..."(Article 2) and "States have the duty to cooperate with each other in ensuring development and eliminating obstacles to development."

### **Human Rights and Regional Programs**

ALWS is concerned that the Inquiry Terms of Reference refer only to the Asia – Pacific region. It is of deep concern that the Australian aid program has increasingly reduced its commitment to Africa despite the compelling case for assistance to a continent that is struggling to protect and fulfil the human rights of its citizens. This is despite significant support from the Australian community expressed through financial support for NGOs working with communities in Africa. In short, the Australian commitment to Africa is not commensurate with either the extent of need or level of community concern. A human rights approach to the aid program demands that universal rights are reflected and pursued through a truly global aid program, and not one excessively influenced by other regionally-based priorities.

## **Human Rights and emergency/humanitarian assistance**

It has been argued that a major contribution the human rights approach makes to the aid program is that it articulates the rights of people and the duty of states and other actors to fulfil those rights. The issue is how this translated into a practical framework for achievement. The Humanitarian Charter and Minimum Standards in Disaster Response seeks to address this challenge. The Charter is based on existing international law and defines the legal responsibilities of states and parties to guarantee the right to assistance and protection. The Minimum Standards are an attempt to operationalise these principles in practice and provide accountability in the delivery of quality assistance that will meet the rights of people affected by disaster. It is not an exhaustive document nor a panacea for solving problems in humanitarian response. But it does provide a framework that places the rights-holder first and demands those rendering assistance to act in terms of their duties to satisfy these rights. It demonstrates an NGO commitment to a rights-based approach, and that a rights-based approach has more than rhetorical value. ALWS acknowledges that AusAID have supported the development of these standards, and ACFOA training sessions in Australia.

### **Case Study of Humanitarian Assistance**

ALWS acknowledges the government's commitment to supporting the rights of people affected by disaster through its humanitarian and emergency relief program. ALWS as an agency has appreciated the funding available under this window to support its refugee and relief work. Over a three year period between 1997 and 2000 AusAID and ALWS supported the LWS program assisting Bhutanese refugees in seven camps in eastern Nepal. The program objectives were to assist meet the rights of refugees as expressed in international human rights law as well as in the 1951 Refugee Convention, especially relating to their health and well-being. To the extent it met these objectives the Australian aid program was clearly assisting to meet human rights objectives.

However, of concern to ALWS was that AusAID declined to assist the advocacy component of this program. A rights-based approach holds that civil, political, economic, social and cultural rights are interdependent and of equal value. An inability to address any one class of rights weakens the prospects of achieving any of them. In the case of the Bhutanese refugees their immediate economic and social rights have been supported in the camps. But the prospects of their full and sustainable enjoyment of these rights are greatly diminished because

their civil and political rights, to a nationality and to return to their place of origin, have been denied.

The advocacy component was endeavouring to achieve nothing other than the sustainable fulfillment of the rights of these refugees, as defined by international law. Despite the position adopted by the Australian government, the Lutheran World Federation and other partners supporting the rights of the refugees have demonstrated that application of the human rights instruments can provide important leverage for rights-holders such as the Bhutanese refugees. At the international level, LWF and others have, for example, supported Bhutanese refugee groups to make statements to the Sub-Commission on Prevention of Discrimination and Protection of Minorities and in other international forums. These statements have been based on Article 15 of the Universal Declaration of Human Rights that states in part “Everyone has the right to a nationality. No one shall be arbitrarily deprived of their nationality.” And they referred to the Convention on the Reduction of Statelessness – a distinct threat to the refugees if Bhutan does not fulfil its duties under international law.

Such advocacy has undoubtedly helped to keep the eye of the international community on what was otherwise an increasingly forgotten refugee situation, and helped promote progress towards the establishment of a verification and repatriation process which is shortly to be commenced. This advocacy took the LWF’s support for the refugees beyond humanitarian relief, towards a just and durable solution in which their human rights might be sustainably protected.

ALWS urges the government to recognise that a rights-based approach is relevant even in relief and emergency related situations, and its aid program must be oriented to pursuing all classes of rights. The case of the Bhutanese refugees highlights that Australian support did support some human rights objectives, but a sustainable solution to their plight requires the fulfillment of all their rights. The history of this situation, in which the Bhutanese refugees have languished in refugee camps for over 10 years, clearly illustrates the point.

### **Advancing Human Rights through differing aid instruments**

ALWS acknowledges that project aid, microcredit activities and debt reduction can be viewed as an expression of a human rights based approach to aid and development. It may not be articulated in these terms but such projects do inherently promote the realisation of human rights objectives such as the right to food, health and education.

However, ALWS is concerned that the aid program tends to focus on financial and technical assistance in development. It is held that a rights-based approach provides the necessary framework for social development because it synthesises 'process' issues with broad social policy objectives. For example, ALWS does not argue that initiatives such as support for human rights institutions, training for judges and lawyers, or courses for security forces are unimportant. They are, in fact, fundamental. However, a human rights approach can help to ensure that projects such as these are planned and implemented based on community participation and consultation. There is a view that many of the international community's prescriptions on these issues have become formulaic, and do not respond to the real and felt needs of the communities concerned.

A strength many NGOs bring to the aid program is their capacity to undertake this synthesising task because of their involvement at the grassroots level.

#### **Case Study – Tete Development Project, Mozambique**

ALWS, supported by AusAID through ANCP, is supporting a development project in Tete Province, Mozambique implemented by ALWS' partner organisation Lutheran World Service/Mozambique. An objective of the program is to 'promote equal access to socio-economic opportunities through the improvement of basic human rights for women.'

LWS/Mozambique have identified a number of issues that require a response:

- Health issues caused by heavy workloads created by obligations at work and home
- Limited access to employment in areas other than domestic and unskilled roles
- Domestic violence against women
- Limited property rights, causing special hardship to women who are widowed
- Low literacy rates – 77% of Mozambican women are illiterate
- The impact of HIV/AIDS that currently falls disproportionately on women

The project, taking careful consideration of the socio-cultural environment, conducts awareness raising sessions through drama, media, dialogue on gender equality, social protection of girl-children, and parental courses on the dangers of early marriage, drug abuse and domestic violence. The issue of gender equality incorporates open discussion involving men and women, and includes specific issues such as legal rights, land rights, the effects of workload on women's health, and the importance of education.

In order to bring sustainable change the establishment of women's groups is being supported that will advocate for women's rights and counseling the victims of domestic violence. Other existing bodies, such as local dance and drama groups, will also be trained to build their capacity to communicate rights-based themes in their communities. Importantly, LWS also works closely with other societal actors such as traditional bodies and government authorities whose cooperation is critical in bringing about systemic change in community attitudes towards women.

## **Debt Reduction – HIPC and Jubilee 2000**

ALWS highlights the Jubilee 2000 campaign as an excellent example of these issues. It is argued that a human rights approach to the debt issue undergirded the Jubilee 2000 campaign. It emphasised the human (rather than narrowly economic) consequences of unsustainable levels of debt burden. And those human consequences can all be directly equated to violations of, or failures to fulfil, specific human rights obligations by national governments and the international community (pursuant to the obligation of international cooperation for the promotion and protection of human rights).

This was and is in contrast to the practical response of the international community (IMF, World Bank, G8) that is based on the 'conditionality' model, with faster and deeper debt relief now being to some extent available through the HIPC/PRSP process, provided that the country concerned complies with even more specific social policy conditionalities.

The Jubilee 2000 campaign stressed the people-centred nature of development. It emphasised that community participation in decision-making and implementation is essential to any program that purports to support development, and it democratised discussion on an aspect of public policy from which ordinary people had hitherto been excluded – despite the direct impact of these decisions on their daily lives.

## **Concluding Comments**

By mobilising community resources and participation and creating an enabling environment, the aid program will be more effective in promoting both sustainable development and the enjoyment of human rights. Although this is often recognised at a policy level, the explicit adoption of a human rights approach to the aid program will enhance the prospects of implementation at the grassroots level.