

A rights-based approach to aid?

- 6.1 In addition to consideration of the terms of reference for the inquiry, one of the issues raised for the Committee's consideration was whether Australia's aid program should have a rights-based approach.
- 6.2 Nearly half of the organisations and individuals that forwarded submissions to the inquiry raised this issue, and discussion of the subject was a major issue at the Committee's seminar.
- 6.3 As set out in Chapter 2, the AusAID position on a rights-based approach to human rights was quite clear: it was not supported, because:
- there was no agreed understanding about the meaning of the term;
 - the Australian Government viewed all human rights as indivisible and of equal priority;
 - such an approach did not sufficiently address the role and responsibility of developing countries in dealing with the rights of their citizens; and
 - such an approach might pre-determine and limit mechanisms for delivering aid.¹
- 6.4 AusAID acknowledged that its submission had concentrated on civil and political rights. It said that this conformed with the terms of reference, and recognised that there was an interest and a debate on the subject within the Australian community. Although there was a degree of common ground in the debate, AusAID noted that, because it meant different things to various organisations, there was a need for further discussion about what the term 'rights-based approach' actually meant.

1 For more detail on the AusAID position, see paragraphs 2.21-2.27.

Finally, the Director-General of AusAID stressed the importance of coherence in the approach to aid and of ensuring a clear perspective for the program, centred on poverty alleviation.²

- 6.5 HREOC believed that the link between foreign aid and human rights was 'mutually beneficial'. Thus, it saw the aid program as an important tool in advancing human rights in developing nations, and the promotion of human rights in such countries as advancing the wider development and objectives of the aid program. It believed therefore that this link should be maintained and strengthened.³
- 6.6 This is a useful starting point for an examination of the seminar's discussion on the topic, and in the submissions received for this inquiry. The issues involved are complex and well understood by all participants in the debate, and what follows is therefore a summary.

The issues

- 6.7 ***Australian Legal Resources International (ALRI)*** defined the rights-based approach to human rights as:

The process by which development is used for the realisation of human rights enshrined in the ICCPR and the ICESCR.⁴

- 6.8 ***Oxfam*** also noted that the rights-based approach was 'bedded' down in the UDHR, the ICCPR and the ICESCR. It said that this framework gave the approach much greater clarity and legitimacy, in both moral and legal terms.⁵
- 6.9 In their joint submission, ***HREOC/APF*** argued that, over the last ten years, 'virtually all' major donors had to varying extents integrated human rights concerns into their programs and policies. Australia's approach, with human rights revolving around development, was seen to be consistent with that of many other countries.⁶
- 6.10 If the advancement of human rights was an end in itself, this submission then argued, a different approach and different administrative mechanism would be required. Such a mechanism would have to locate the

2 Transcript, 5 July 2001, pp. 3, 24-25, 27-28, 60. AusAID referred particularly to the concept of 'progressive engagement' with partners such as the Philippines and Indonesia: see paragraph 3.3. The Human Rights Council of Australia referred to varying definitions of 'good governance': see *ibid.*, p. 29; Submission No 23, p. 291.

3 *ibid.*, p. 6.

4 *ibid.*, p. 26.

5 *ibid.*, p. 24.

6 Submission No 10, pp. 100, 101.

promotion and protection of human rights as the goal, with development as a desirable but not necessarily central impact.⁷

- 6.11 Even among NGOs, there were different views on this issue. HREOC/APF noted that it was difficult to gather precise information on the extent to which development assistance was utilised to advance human rights objectives. *Oxfam*, however, referred to ‘a growing body of evidence’ highlighting the severely limited or negative impacts of development projects conceived and implemented without reference to a rights-based approach to development.⁸
- 6.12 The *Centre Housing Rights and Evictions (COHRE)* noted that, potentially, poverty reduction and the rights-based approach had much in common. It believed that an understanding of economic, social and cultural rights could help deepen the understanding and analysis of the different dimensions of poverty, and assist in setting benchmarks for its progressive eradication. It observed that, at the international level, poverty was increasingly being seen as a violation of human rights.⁹
- 6.13 COHRE welcomed the Minister’s six points announced in 1998 as providing a framework for the promotion of human rights as a welcome contribution to policy in this area, even if they did not specifically adopt a rights-based approach. It pointed out that, more recently, the promotion of this approach had encouraged a broader examination of how aid could be used positively and practically to help in the realisation of all human rights.¹⁰
- 6.14 It believed that Australia had the potential to play an influential role, especially in its region, in encouraging the discussion on the link between poverty and other human rights. It noted, however, that it was unclear how this country’s commitment to the promotion of human rights was currently reflected, for example, in the ADB’s policies and programs.¹¹
- 6.15 COHRE suggested that an over-reliance in a belief that economic growth alone would result in the progressive realisation of human rights could lead to policy prescriptions that, at least in the short term, were retrogressive and *prima facie* breaches of the ICESCR.¹²

7 *ibid*, p. 100.

8 *ibid*; Submission No 21, p. 257.

9 Submission No 28, p. 432.

10 *ibid*, p. 433. See paragraph 2.6 for the Minister’s six points.

11 Submission No 28, p. 432.

12 *ibid*, p. 434.

- 6.16 There was some support for this idea from **AFAO**, which suggested that aid had to be examined in a systemic fashion, to establish its effects on human rights, health and HIV/AIDS.¹³
- 6.17 **Mr Garth Luke** accused Australia of failing to support the wide range of international instruments that it had signed. Instead of actively working with other nations to realise the 'noble intentions' in these documents, he believed that successive ministers and AusAID's staff had 'cynically argued' against the usefulness of their concepts to avoid making any significant commitment towards their realisation.¹⁴
- 6.18 **CARE Australia** believed that the rights-based approach drew on international human rights norms, as a principled and coherent framework by which to approach development. It did not accept that human rights should be subordinated to the objective of poverty reduction, and suggested that there were other measures, such as relieving debt and focusing on broader economic issues, to achieve development.¹⁵
- 6.19 **ACFOA** stated that there was a need for a comprehensive analysis of poverty, both in particular societies and to demonstrate how participation and equity was denied because of the resulting lack of human rights. It pointed to recent change in thinking about the rights-based approach, citing the World Bank's Comprehensive Development Framework (CDF) and the positions now being taken on this issue by the UN, UK, Canada and Sweden.¹⁶
- 6.20 ALRI suggested that the World Bank's framework was a 'classic prototype' of the rights-based approach because it brought together the work of NGOs, civil society and inter-governmental organisations.¹⁷
- 6.21 The **Human Rights Council** and Oxfam agreed on the need for explicit human rights objectives or targets, to measure both the effectiveness of the aid process and progress towards achieving program goals. In this context, ACFOA noted the difficulty of assessing the value of programs without benchmarks or clear references to the various universally agreed human rights instruments.¹⁸
- 6.22 ALRI believed that a rights-based approach would assist just this process of assessing the efficiency of the delivery of aid. It noted that, over the
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13 Submission No 11, p. 136.

14 Submission No 9, pp. 93-94.

15 Transcript, 5 July 2001, p. 13.

16 *ibid*, pp. 18, Submission No 26, p. 365.

17 Transcript, p. 28.

18 *ibid*, pp. 40, 56.

past two years, UNDP had integrated human rights into its operations. It noted that, while the assessment, quantification and measurement of results of this benchmarking process had begun, it was still a long way from achieving agreed results.¹⁹

- 6.23 ALRI also noted that, because of constant change, the realisation of human rights involved a constant need to verify progress against the direct experiences of recipients of aid. It recommended the concept of ‘country teams’, made up of civil society, government and inter-governmental organisations, providing feedback to central agencies responsible for coordination of delivery of aid.²⁰
- 6.24 ALRI noted that it was more difficult to measure progress in the acceptance of civil and political rights. It was clear that progress was being made if, for example, courts were being used by more people and decisions by those courts were being followed up. ALRI believed that such benchmarks could be developed.²¹
- 6.25 HREOC/APF was concerned that AusAID had been ‘very clearly focussed’ on setting benchmarks and evaluating criteria for human rights projects to the extent that it had become something of a ‘fetish’. It noted the progress AusAID had made, over the past few years, of incorporating human rights into all of its programs. It drew a distinction between two programs:
- one that sought to introduce the concept, ideas and practices of human rights, where progress can be measured, and
 - a second program implemented in a country where there was already a program promoting and protecting human rights that could be strengthened.²²
- 6.26 It believed that both programs were being undertaken by AusAID and were ‘quite fruitful, quite well-based and quite well designed’, and were achieving results.²³
- 6.27 The **VCA** reiterated its recommendation that the promotion and advocacy of human rights be made a formal objective of Australia’s aid program. It conceded that this was an ambitious goal because it would probably require a review of the findings of the Simons Report. It argued that the

19 *ibid*, p. 52.

20 *ibid*.

21 *ibid*, p. 53.

22 *ibid*, p. 58.

23 *ibid*.

rights-based approach was another way of achieving the objectives that were the results of that review of the aid program.²⁴

- 6.28 The *Refugee Council of Australia* stressed its view that the promotion and protection of human rights was not solely about poverty alleviation. Nor was it simply about the rights in the UDHR and the two Covenants, but about the broader rights framework in a number of international conventions, each of which contained important guiding principles. The Council suggested that it was important to examine the work of agencies that had an entrenched rights-based approach for guidance about its incorporation into programs.²⁵

Conclusions

- 6.29 The Committee believes that the gap between the views espoused by AusAID and those who want a rights-based approach is not great. In reality, it seems that there is not a great difference between the views on either side. It also noted the complimentary remarks from other participants, at the seminar held on 5 July 2001, about AusAID's work.
- 6.30 During the course of the seminar, AusAID did sometimes appear dismissive of the reasoned and detailed arguments put forward by other participants, without perhaps due consideration during the discussion.
- 6.31 The Committee believes that there would be benefits in an on-going, formal series of discussions between AusAID and Australian NGOs about aid issues generally, and the Australian aid program in particular. Informal contacts undoubtedly take place on a continuing basis, but a more regular and formal process also has a role to play in the exchange and development of ideas.
- 6.32 The Committee has therefore suggested earlier in this report that AusAID convene a program of seminars with Australian non-government organisations to discuss subjects of common interest, including specific linkages between aid and human rights.²⁶
- 6.33 The Committee would like therefore to end its consideration of this topic on a cautionary note. It believes that further discussion and analysis of the link between aid and human rights would be more effective if all participants remembered that the similarities in the views expressed are
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24 *ibid*, pp. 9, 58.

25 *ibid*, p. 59.

26 See paragraph 3.96.

greater than the differences. At present it seems that there is a strong emphasis on the latter, to the diminution of the former. The debate is likely to be part of an evolutionary process that will not resolve anything for some time, and is best conducted in that spirit, for the sake of the object of the discussion: the size and shape of the Australian aid program.

Senator Alan Ferguson
Chairman