



Submission No 8

Inquiry into Australia's aid program in the Pacific

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Submission to Human Rights Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade

Inquiry into Australia's aid program in the Pacific

Summary of Recommendations

A Human Rights Approach:

1. AusAID conduct an analysis of the benefits that might flow from the systematic integration of a human rights focus throughout the aid program.
2. The proposed Office of Development Effectiveness incorporate analysis of the effectiveness of the aid program in helping to achieve the Millennium Development Goals (MDGs) in its Annual Review of Development Effectiveness.

Strengthening Law and Justice:

3. The Australian Government works with, rather than in parallel to, Pacific law and justice systems – particularly with understanding of the centrality of ritual, custom, and reconciliation.
4. The Australian Government encourages and facilitate shared understanding of, and work towards, law and justice goals via a holistic approach involving community based organisations.
5. Work with community organisations to develop, implement and monitor community policing programs that uphold human rights.
6. The Australian Government mainstreams strategies to address violence against women into programs to develop the capacity of police forces. These strategies should include:
 - a. Prioritising investigation and processing of cases where women are prepared to come forward to develop some faith in the system.
 - b. Work with organisations such as the Fiji Women's Crisis Centre which have experience in work to change attitudes of police (noting also the need for this to be continued through to the Courts system).
 - c. Developing skills of all police, but particularly women police, in investigating cases of violence against women.
 - d. Researching and supporting examples where community based legal support is overcoming barriers to women accessing the legal system.

Improving Economic Management and Public Accountability Institutions:

a. Regional Trade and Labour Policy:

7. In negotiating trade liberalisation with Forum Island Countries, either as a member of a Working Party for WTO accession or as a party to PACER, the Australia Government must ensure that:
 - a. Liberalisation occurs in ways that meet their development needs as small and vulnerable economies having to compete with larger and stronger economies and producers. This means allowing them to liberalise to the extent and at a pace that will allow them to benefit and the negative effects to be minimised.
 - b. Any liberalisation of investment does not remove the ability of FIC governments to regulate foreign direct investment in the national interest, nor to promote local investment and infant industries.
 - c. Any liberalisation of services does not remove FIC government's ability to regulate foreign service providers so as to ensure that all those who need essential services (health services, education, sanitation and clean water supply) are provided with them.
 - d. Adequate funds are made available to FIC governments from the aid program to enable them to meet the cost of adjustment.

8. That the Australian Government implements a series of pilot programs for seasonal workers to travel from the Pacific to Australia, as a contribution to poverty alleviation in the region. Programs should:
 - a. be well regulated with involvement of government, employers' and workers' organisations, to ensure that core rights are maintained (labour rights, working conditions, health and safety laws).
 - b. adhere to core labour conventions and standards with safeguards built in to protect workers' rights and guarantee freedom of association.
 - c. be well monitored in terms of gender, social, cultural and political impacts, so the economic benefits of remittances can be weighed against the social costs.
 - d. investigate opportunities for women as well as men to join seasonal work programs, with training for work in non-traditional areas and appropriate community support and advice (eg on sexual harassment, childcare etc).
 - e. include strategies such as training programs to mitigate negative consequences of "mobile men with money" (eg. the SPC's Regional Maritime Program has developed social responsibility training modules for seafarers from Kiribati and Tuvalu).

b). Extractive Industries Transparency:

9. The Australian Government to pursue an aid program which encourages:
 - a. the development of corporate accountability measures that run parallel to any support by the Australian aid program to extractive industries;
 - b. training of Australian mining companies in development issues and the importance of a human rights focus to development;
 - c. improvement to host country environmental and social impact assessment measures and requirements in relation to extractive industry projects;
 - d. improvement of host country regulatory standards for environmental, health and social impacts of mining, oil and gas operations (including, for example, establishment of water quality standards based on current international WHO standards);
 - e. development of independent complaints mechanisms within host countries which would provide an avenue for resolution of local peoples' concerns regarding mining, oil and gas operations;
 - f. implementation of transparency mechanisms in relation to environmental, social and financial reporting of mining, oil and gas operations (including, but not limited to implementation of the Extractive Industries Transparency Initiative);
 - g. host state transparency in relation to the use and distribution of revenues from mining, oil and gas operations;
 - h. host state regulation which seeks to ensure that companies obtain the free, prior and informed consent of communities that are likely to be affected by mining, oil and gas operations;
 - i. collaboration with Austrade to ensure that Austrade's promotion of Australian suppliers to PNG and other Pacific countries' mining sectors is undertaken in such a way as to prioritise Australian companies that have sound environmental and social responsibility policies and practices.
10. Conduct an inquiry into the environmental, social and fiscal impact of the foreign operations of mining, oil and gas companies incorporated in Australia (with particular reference to the contribution that may be made by an independent complaints mechanism with responsibility to investigate issues in relation to the foreign activities of Australian-incorporated mining oil and gas entities).
11. Implement measures requiring Australian companies to:
 - a. uphold universal human rights standards, especially those in UN Conventions ratified by the Australian Government;
 - b. uphold labour rights;
 - c. operate in ways which will minimise or preclude environmental damage;
 - d. implement the principle of Free, Prior and Informed Consent (FPIC)

- e. practice transparent revenue reporting, including in relation to payments made to governments of resource-rich nations (consistent with the principles promoted by the Extractive Industries Transparency Initiative)
- f. operate in ways that promote sustainable development and livelihoods in the communities in which they work;
- g. as a minimum, work to Australian standards regardless of the location of the operation (if standards of the host State are higher in terms of promoting social and environmental responsibility, then those higher standards should apply).

Good Governance, Accountability and Civil Society Development:

- 12. The White Paper strategy to 'strengthen the performance orientation of the aid program' takes the need for flexibility, learning, and adaptation into account, and that the proposed Office of Development Effectiveness is given the space to develop more innovative ways of developing the Government's ability to 'listen' as well as developing more orthodox methods of assessing effectiveness.
- 13. The Australian Government, as an external actors in promoting governance needs to contribute to:
 - a. Strengthening the ability of Civil Society organisations to hold Governments to account
 - b. Strengthening the ability of Governments to respond to these demands
 - c. Helping to ensure the external pressures do not undermine the incentives for Governments to be accountable to their citizens.

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Introduction

Oxfam Australia welcomes the opportunity to make a submission to the Human Rights Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade's inquiry into Australia's aid program in the Pacific.

Oxfam Australia has been working in the Pacific region since the 1960s. Oxfam's Pacific Program is jointly implemented with Oxfam New Zealand and focuses on Papua New Guinea, Solomon Islands, Vanuatu and Fiji. Program work focuses on conflict and peace building, livelihoods – particularly the impacts of mining, forestry, and trade, disaster management, and sexual health and HIV. Gender, youth, and social and political citizenship are cross cutting themes. Oxfam has offices in Papua New Guinea (Port Moresby and Goroka), Solomon Islands, and Vanuatu.

The analysis of the Australian aid programme presented in this document is drawn from discussions and interviews with field based staff, local partner organisations, and Oxfam's previous research in the region. This submission addresses the following areas of the Committee's terms of reference:

- Strengthening law and justice;
- Improving economic management and public accountability institutions;
- Anti-corruption and good governance measures; and
- Civil society development.

Section 1: A Human Rights Approach

Throughout this submission, Oxfam emphasises that the Australian Government must prioritise achievement of human rights and the progress towards the Millennium Development Goals. The *White Paper on the Australian Government's Overseas Aid Program* discusses human rights in relation to land rights, women and institutional support for human rights,¹ but greater emphasis could have been placed upon the importance of human rights in development. Other donor countries, such as the UK, have integrated a rights-based approach into their overseas aid programs and have found a range of benefits associated with such an approach. A review of the UK's aid program demonstrated clear normative, analytical and operational advantages flowing from its rights-based approach.²

Oxfam takes a rights based approach to our development and humanitarian work. Oxfam Australia believes everyone has human rights and that these are:

- *Inalienable*: all people are born with the same human rights; human rights cannot be taken away or given up.
- *Universal*: every human being has the same rights, everywhere, at all times.
- *Indivisible and interdependent*: all rights are equally necessary for life and dignity. Some rights cannot be suppressed to promote other rights.

Oxfam Australia believes that basic human rights can be met, and that inequalities both within and between nations can be significantly reduced through concerted human action and political will.

The Universal Declaration of Human Rights, international conventions, laws and commitments together provide internationally recognised standards which can be used by state and non-state actors to judge the outcomes and impact of particular social, economic and political policies and practices. As such, they provide a powerful tool to assess the impact of government and corporate policies and practises. They can be used to hold state and non-state institutions to account.

¹ Australian Government/AusAID, *Australian Aid: Promoting Growth and Stability: A White Paper on the Australian Government's Overseas Aid Program*, 2006, pp. x, 15, 22, 36, 42, 43.

² Laure-Hélène Piron & Francis Watkins, *DFID Human Rights Review: A review of how DFID has integrated human rights into its work*, Overseas Development Institute, July 2004 available at <http://www.odi.org.uk/rights/Publications/DFIDRightsReview07.04.pdf>

Oxfam Submission to Human Rights Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade Inquiry into Australia's aid program in the Pacific

Recommendation 1:

AusAID to conduct an analysis of the benefits that might flow from the systematic integration of a human rights focus throughout the aid program.

The Millennium Development Goals are a set of eight goals aimed at halving global poverty by 2015 and they relate to human rights recognised in the International Covenant on Economic, Social and Cultural Rights and other human rights conventions, which Australia has ratified as have many Pacific Island States. Progress towards the Goals can be said to be progress towards fulfilling adherence and respect for these rights. Australia's size, strong economy, regional location and relationship with other key rich nations give us a unique opportunity to play a leading role in the achievement of the MDGs. Yet, they are yet to be given any prominence in the strategic framework for the aid program.

By contrast, other countries such as the United Kingdom and Sweden have integrated the MDGs into their aid programs in a systematic way, using them as tools for monitoring and accountability.

The White Paper expresses a "strong and unstinting commitment to the global effort to achieve the MDGs", saying that it outlines how the objective of the aid program can be best achieved over the next ten years as part of the global effort to achieve the MDGs. Yet it doesn't expressly demonstrate how the initiatives set out in the Paper will help achieve the MDGs.

Despite the stated commitment to the MDGs, the White Paper avoids any real accountability regarding MDG achievement. It is both desirable and necessary for the Government to explain how it intends to monitor and assess the extent to which different aspects of the Pacific aid program are contributing to the achievement of the MDGs.

Recommendation 2:

The proposed Office of Development Effectiveness incorporate analysis of the effectiveness of the aid program in helping to achieve the MDGs in its Annual Review of Development Effectiveness.

Section 2: Strengthening Law and Justice

Law and justice are priority issues for Oxfam partners, with concerns ranging from those about unemployed, bored young people turning to crime in urban settlements in Vanuatu, Fiji, and Solomon Islands to entrenched tribal violence in Highlands PNG, and racially based violence and harassment in Fiji:

(In the East Sepik Province), there are not long running sources of conflict like the highlands. There are conflicts about land – land boundaries. These issues come up when there is mining or forestry and a land owner group that has never been seen before comes up.³

(In Fiji) robbery with violence (a lot of break-ins), physical and verbal abuse, especially for gay people... the accessibility of guns – they are appearing in robberies – before we never used to have those... (there is) psychological abuse, including racially-based abuse in schools – against Indo-Fijian teachers, and politicians use racial slurs in parliament.⁴

Underlying causes of violence and insecurity in Melanesia show some variation – particularly in Fiji where Oxfam partners cite increasingly institutionalised racism and the rise of conservative ideologies as key issues. In PNG, it is often stated that land, women, and pigs are the main causes of conflict and fighting, and poverty and boredom – particularly related to the lack of opportunities for young people are growing issues: *Poverty is the main cause of people taking law into their own hand. Poverty makes the youth and others break into houses to get a little bit of cash.*⁵

³ Interview, Chris Maingu & Jill Bosro, HELP Resources, PNG, in Vanuatu (May 2006)

⁴ Interview, Oxfam Fiji partners, in Vanuatu (May 2006)

⁵ Interview, Dianah Ulku, MIKS, PNG, in Vanuatu (May 2006)

Law and justice in the Pacific context

Across the Pacific, and particularly in Melanesia, there are tensions felt between introduced and traditional law and justice systems. However, the criteria for what a “good” law and justice system looks like are common to both systems – integrity, honesty, accessibility, functioning and unbiased dispute resolution mechanisms, acknowledgement of grievances, and relief of suffering.⁶

“Law” and “justice” can be conceptually different in Pacific societies, particularly when the introduced system of law does not allow for Pacific perceptions of justice. The centrality of compensation in Melanesian justice systems for example is a key area of tension. While Oxfam is not advocating for a return to traditional law and justice systems, introduced systems need to be aware of the important roles of compensation, ceremony and ritual in Pacific justice systems. However, it must also be noted that the practice of custom reconciliation and compensation has been distorted and deliberately abused in some situations – for example following the Solomon Islands conflict, the emphasis on monetary compensation and the payment of significant amounts of money to ex-combatants, exaggerated tension and corruption rather than resolve it.⁷

Involvement of traditional governance structures

Civil unrest, such as the Solomon Islands conflict, has undermined traditional structures, lines of respect, and dispute resolution mechanisms. This has significant implications for law and order and justice processes:

Before we had a Chief and Headman in the village; we didn't have men who steal, who kill or rape because everyone was frightened of the Chief and the Headman... The problem is now the structure has gone – we don't have law and order, we don't have *Kastom*...⁸

There are examples within the Pacific of initiatives to modify or improve traditional governance structures in accordance with the changing context or because of realisation of their deficiencies (refer box 1).

Box 1: The Dalobala, Sirahi, and Tafubala (DST) Tribal Association

The DST Tribal Association is a grouping of three main arms of a single tribal line in Kwara'ae in Malaita, Solomon Islands. This Association, established in 2001 after large numbers of Malaitans returned to their provincial homes during the 'tensions', seeks to reconcile the various branches and sub-branches of the tribe and to draw on their knowledge, skills, strengths and people to further the development and advancement of the wider tribal members as a whole.

Recognition and valuing of traditional and customary ways are significant elements of the Association's approach. The Association's initial work focused on establishing, agreeing and documenting genealogies for the various elements of the wider tribe and on setting up a Cultural Centre in Bitakaula close to Auki. They have since developed an action plan which includes specific objectives to ensure the participation of women and young people as important players in DST planning and implementation processes, and to proactively complete the process of tribal reconciliation for the entire DST tribe.

The Association also plans to pursue greater formal (legal) recognition of the role of the traditional authority of chiefs over some criminal acts.

Alternative justice mechanisms

The tension between “Western” criminal justice systems, which emphasise penal measures; and customary systems of justice, which emphasise reconciliation between parties, often using compensation and symbolic measures has led to peace activists in Melanesia drawing on a synergistic mixture of Christian and Melanesian values to promote “restorative justice”.⁹ The process of restorative justice brings together perpetrators of crimes and affected parties; and by emphasising community-based justice, reconciles the parties and enables the reintegration of offenders into communities. This is a more sustainable approach to building peace, as it engages the people directly affected by the conflict, and promotes reconciliation between them (refer Box 2).

⁶ Summarised from criteria given in interviews with partner organisations, Vanuatu (May 2006).

⁷ See Solomon Islands Christian Association, *Truth & Reconciliation Commission: A Framework for Public Consultation*, Honiara, 2002.

⁸ Interview, Women civil society representatives, in Auki, Solomon Islands (2 August 2005)

⁹ Restorative justice is a community-based model of conflict resolution that provides an alternative or complement to the formal criminal justice system. See Pat Howley, *Breaking spears and mending hearts – peacemakers and restorative justice in Bougainville*, Federation Press, Leichhardt, 2002.

Box 2: Women's Action for Change - Fiji

In Fiji, Women's Action for Change has run an alternative diversionary justice program (primarily for juveniles). In 2004 four people were convicted by court of assaulting a young gay man (the assault took place at school), and the magistrate sent them to work with WAC for two hours per week for five months. WAC's program included awareness of homosexuality, anger management, and self-esteem. Initially the school was very hostile to WAC, but then at the end was very happy with what they had done with the boys, and were open to more programs like this. One boy is now a lieutenant in the Army, one is doing NGO work, and the others are still in school. None have re-offended.

Recommendation 3:

The Australian Government works with, rather than in parallel to, Pacific law and justice systems – particularly with understanding of the centrality of ritual, custom, and reconciliation.

A shared understanding and vision

Australian assistance to the law and justice sector is generally welcomed in Melanesia. Where there is active engagement between law and justice activities implemented through the Australian aid program and community organisations, feedback is very positive:

Interaction with the AusAID-funded L&JSP (in Suva) has been positive – constant and quick. They are supportive – they are happy to have extra support to do the work they have to do... they are approachable and willing to come to NGOs – quite consultative ...¹⁰

However, some Oxfam partners and others raised concerns that there is a lack of shared understanding of, and a shared vision for, what a strong law and justice sector should be and how to get there, as indicated by these examples from Fiji and the Solomon Islands.

What kind of standard are we trying to build the Law and Justice system up to? To a sustainable achievable standard that the Fijian government can maintain once aid is pulled out, or a fancy system which is not affordable or sustainable to maintain?¹¹

The community and even the police force itself has very little understanding of the program... the information goes to some people further up the hierarchy, but doesn't go all the way down. Australian consultants are working with a few people, but the people they are working with - middle level staff - are not feeding the information down, or feeding the information from the bottom upwards.¹²

My personal view of what RAMSI is doing – it is unclear. I ask "what are we capacity building? Human Resources? Infrastructure? There should be guidelines... I have worked with projects before – AusAID Projects. There should be a document with log frames, aims, and objectives. I fail to see any plans or involvement of RSIP officers in identifying what capacity building (will happen)... There should be a RSIP/PPF steering committee or body that manages and comes up with strategies and priorities for capacity building."¹³

Amongst Oxfam partners, and no doubt amongst the wider NGO community, there are examples of NGOs being proactive in initiating and testing out different approaches to law and justice issues in the Pacific (refer Box 3). Some of these programs are addressing gaps at the community level in access to law and justice services, whether because of the lack of services at that level, or because of other barriers. There are examples of where these programs have happened in conjunction with AusAID law and justice sector programs, and these should be encouraged. In these cases Oxfam partners are very positive about having their skills and experience recognised, as well feeling they are able to contribute to the sector.

¹⁰ Interview, Oxfam Fiji Partners, in Vanuatu (May 2006)

¹¹ *Ibid.*

¹² *Ibid.*

¹³ Interview, Senior RSIP Officer, in Honiara (29 July 2005)

Box 3: A holistic approach involving NGOs

The ECREA Peace Program (Fiji): ECREA was requested by the Fiji Police to do training for them on trauma and self-care. There were 30 trainees and ECREA worked with the Law and Justice Sector Program. From this came a request for a further workshop, plus a request to write a harm minimisation module for the Police Academy curriculum. This has been submitted – some of the module has already been used by the Family Support Service (counselling unit of Fiji Police), and two of their female counsellors that attended the initial training on trauma and self-care and have been able to use a lot of the material.

Women's Action for Change (Fiji): Via indirect exposure to WAC restorative justice work at Muaniweni community a female police officer has been using the skills at the Nausori police station. WAC believes that giving people an alternative form of dealing with a situation can relieve the need to charge people, and can even prevent people getting into trouble with the law. This sentiment is echoed by ECREA – “a lot of police officers don't have a high level of education, and what they have learnt in the institution is usually all they know... (this gives) them alternative training and practical skills – learning by doing.

WAC has worked with offenders and ex-prisoners, doing life skills and conflict prevention programs with them. This has focused on creating a safe space for offenders, and providing assistance with referrals and writing official documents. With FRIEND (another NGO), WAC has worked with 25 young people (of which 10 were ex-prisoners) – 7 have found work (paid work or income generation). Their friends who are ex-prisoners have asked WAC to run the program with them.

Meri Kirap i Sapotim (PNG): Meri Kirap is active in improving legal literacy in the Highlands Program of PNG, and are able to reach people otherwise excluded by government focused initiatives: *Most smaller people don't know anything about the laws and their human rights... so our MIKS program is trying to make more and more people aware of the laws and the changes to the laws.*¹⁴

HELP Resources (PNG): A village court system operates in the East Sepik Province but the problem is that village court magistrates don't know the law. HELP has started talking to the Community Law and Justice Unit in Moresby to develop training for village court magistrates.

Recommendation 4:

The Australian Government encourages and facilitate shared understanding of, and work towards, law and justice goals via a holistic approach involving community based organisations.

Community policing

Community policing is a strategy evident in AusAID (and NZAID) assistance to the law and justice sector in the Pacific. Initiatives in Vanuatu, Samoa, Bougainville, Solomon Islands, PNG and Fiji all explicitly include community policing as a focal area. There is potential disjoin between “community policing” as an approach in the formal police force (encompassing community-based crime prevention; street patrols, and mechanisms for community feedback) and how this actually plays out via “community police”.

When Oxfam asked partners about their views and perceptions of community policing, all referred to “community police”. These are often untrained, inexperienced young men who have taken up a “policing” role at a community level, often due to the lack of formal police. The results are very mixed, as shown by the following examples:

Auki, Malaita, Solomon Islands: When Oxfam staff were researching issues and responses to violence against women in August 2005, during the visit to Auki and surrounding villages, many people commented favourably on the role of Community Police: “*Before the Community Police helped with problems of domestic violence and kwaso.*”¹⁵ Community Police were selected by the Chiefs – often those who were selected were “the worst boys in the village” and the experience was that through community policing they learnt discipline and responsibility and “stopped doing the bad things”. When there were problems in the village the Community Police would take the offenders to the Chief who would then deal with the situation. The Community Policing initiative, supported by AusAID and the Solomon Islands government was stopped by RAMSI on its arrival to the area “pending a review”.¹⁶ Later, RAMSI apparently tried to set up their own law and order Committees in the village, but these were not perceived to have any authority.

¹⁴ Interview, Dianah Ulku, MIKS, PNG, in Vanuatu (May 2006)

¹⁵ Interview, Central Kwara'ae Women's Association executive, in Auki, (2 August 2005)

¹⁶ Interview, Solomon Sisimia, Head of Community Police, RSIP Malaita, in Auki, (3 August 2005)

Highlands, PNG: "Community policing was introduced because of the lack of police presence – they have their own uniform. It was also introduced so that young men and women who are bored have something productive to be involved in. It's a very good idea and it is working. It's important for the community police to have the trainings so they know their roles and the channels of reporting.¹⁷ It's good to involve the young boys so it gives them purpose."¹⁸

East Sepik Province, PNG: "If someone snatches a bag and is caught by the public they will beat him and then take to the community police who will belt him again. If they recover the bag they will belt him again and let him go. It depends on which policeman is on duty at the time. Some will say the belting is punishment. Some will send him to jail. By the time he gets to the cell he is already half dead... Community Police were started by the national government through the police department because police were outnumbered. Therefore, they made the decision to try Community Police. They tried in some places like Port Moresby and failed. They tried in the Sepik. The idea is that each policeman would be in their own communities and would respond to issues – they were not intended to be proactive police – such as to go into a house and search, or set up road locks. In the East Sepik they have gone beyond their intended role – they are setting up road blocks, issuing spot fines... In the structure of the regular police there should be someone who supervises them. The Community Police are appointed by the ward councillor. There is some supervision from the base there. The Community Police in East Sepik have had no training. There are no criteria - it is up to the Councillor. To help the Councillor there could be an application process and then a training program."¹⁹

Fiji: Community policing exists in Fiji but it is seen as a sub-unit of Fiji police. There needs to be more synergy between the two. This is one area that needs to be supported more in terms of training and prevention. (The community police) need to know who their community is... It is individual guys taking it on, rather than being systematic, proactive work.²⁰

Box 4 provides an example of where a community based organisation in PNG, HELP Resources, has succeeded in overcoming some of the problems with community police by providing training and support from a strong human rights perspective.

Box 4: Human Rights Training for Community Police - HELP Resources (PNG)

Because of the issues of violence being perpetrated by Community Police in the East Sepik Province, HELP Resources has been proactive in providing human rights training for Community Police units. The initial entry point was via a woman community police officer at Yawasoro (just outside Wewak), who became involved in HELP Resources Sexual Health training program, and then requested further training. HELP's training for Community Police is from a strongly gendered perspective and takes the approach of "put yourself into someone else's shoes – how would you feel if it happened to you?" The training talks about what has happened in the world, and tries to bring understanding of the struggles that have taken place globally (such as the world wars, holocaust etc) and where the emphasis on human rights has come from "if you touch people's emotions you can bring change"²¹ The training is the first time people have been exposed to these issues.

As a result of this training, HELP Resources reports that the Supervisor of Yawasoro community police states that the attitude and behaviour of those community police has totally changed – they don't beat people if they bring people in - they talk to them, and the community is quieter. Training has also been conducted for Kreer Community Police and there are requests from two other units. Human Rights training has also been conducted in Ambunti, and the Ambunti community police now seek advice from the HELP office in Ambunti to deal with cases.

Recommendation 5: Work with community organisations to develop, implement and monitor community policing programs that uphold human rights.

¹⁷ MIKS has recently begun working with International Women's Development Agency to develop a program of training for police, including the legal environment, gender and human rights.

¹⁸ Interview, Dianah Ulku, MIKS, PNG, in Vanuatu (May 2006)

¹⁹ Interview, Chris Maingu & Jill Bosro, HELP Resources, PNG, in Vanuatu (May 2006)

²⁰ Interview, Oxfam Fiji partners, in Vanuatu (May 2006)

²¹ Interview, Jill Bosro, HELP Resources, PNG, in Vanuatu (May 2006)

Violence against Women

Violence against women is recognised as a serious impediment to development in the Pacific region:

Violence and the fear or threat of violence pervades all spheres of social, economic and political life. It prevents women from taking educational and employment opportunities, from being involved in public life and decision making, achieving equality and gaining their basic human rights.²²

Oxfam partners specifically raise violence against women as a priority law and justice issue:

Rape, domestic violence and armed hold-ups (are the main forms of insecurity in PNG)... Sexual violence – probably about 80-90% of women experience domestic violence... Most rape occurs in the family, there are a lot of cases of incest. There is no justice taking place. A lot of the girls are underage.²³

Law and justice is a major problem in PNG, especially for women. Women are not free to move around and they are not free to vote.²⁴

(In Fiji) sexual and gender-based violence, and child sexual abuse (are the most frequent forms of insecurity, violence, or human rights abuses).²⁵

Numerous reports have concluded that rape has become a major threat to social stability, economic development and seriously impedes the full and active participation of women and girls. Police statistics in the early 1990s indicated that rape was the most frequently reported offence against the person, with a rate of 80 cases per 100,000 population, higher than in most countries not at war. Research by the Institute of Medical Research in Goroka in 1994 found that 55% of women interviewed had been forced into sex against their will. Although police statistics throughout the country are inconsistent, they do indicate high levels of rape, relative to other crimes.²⁶

The Australian government states that eliminating violence against women is a priority,²⁷ and provides support to initiatives including the Fiji Women's Crisis Centre and the Vanuatu Women's Centre. These Centres provide essential services, and the Fiji Centre in particular is a significant training resource in the region. However, more could be done to address violence against women through the Australian aid program's support to the formal law and justice sector. The support to the Royal Solomon Islands Police (RSIP) through the Regional Assistance Mission to the Solomon Islands (RAMSI) being a good example of this (refer Box 5).

Box 5: RAMSI, RSIP and efforts to prevent violence against women²⁸

In the *Social Impact Assessment of Peace Restoration Initiatives in Solomon Islands*, RRRT/UNDP note that "the RSIP Review has violence against women, particularly domestic violence, as a key priority area for action and aims to set up a unit to address violence against women and child abuse".²⁹ The Report of the Pacific Islands Forum Eminent Persons Group review of RAMSI states that "*Domestic violence is also an issue. There are perceptions that RAMSI police are giving insufficient attention to this order of crime and that the RSIP is currently incapable of addressing it.*"³⁰ The National Economic Recovery and Redevelopment Plan 2003-2006 includes an objective to establish "a special unit within the police force specifically to handle gender violence including all forms of sexual violence against women and children and to offer counselling for victims, establishing a system for reporting domestic violence and linking with other stakeholders working in the area of gender violence and child abuse."³¹ However, despite this apparent prioritisation by the Solomon Islands Government there does not appear to have been a corresponding prioritisation of this issue by RAMSI:

There is no training for RSIP on gender. Before RAMSI, through the Law and Justice Program there was a welfare unit and through them there was training on EEO, gender, and domestic violence. There was also some input from Fiji Women's Crisis Centre. Since RAMSI there has been nothing.³²

There are some examples of RAMSI and RSIP trying to implement programs responding to violence against women and domestic violence in general – the establishment of the Sexual Assault Unit in Honiara for example was widely seen to be a positive initiative, although under resourced and with limited reach. The public commitment of William Morrell during his term as Police Commissioner to dealing with domestic violence – evidenced by the sacking of police officers for being perpetrators of domestic violence, also was seen as a positive statement.

²² Fiji Women's Crisis Centre: Violence Against Women in the Pacific 24 Aug 2005, available at <http://www.fijiwomen.com/index.php?id=1621>

²³ Interview, Chris Maingu & Jill Bosro, HELP Resources, PNG, in Vanuatu (May 2006)

²⁴ Interview, Dianah Ulku, MIKS, PNG, in Vanuatu (May 2006)

²⁵ Interview, Noelene Nabulivou, Women's Action for Change, Fiji, in Vanuatu (May 2006)

²⁶ HELP Resources, Inc: A Situational Analysis of Child Sexual Abuse & the Commercial Sexual Exploitation of Children in Papua New Guinea (January 2005) UNICEF PNG

²⁷ AusAID, 2005: Australian aid: Eliminating violence against women

²⁸ Extracted from Anne Lockley & Nancy Kwalea, *Violence against Women in the Solomon Islands Links to conflict and needs from Intervention: A Case Study*, January 2006 (draft), Oxfam internal document.

It is important that if Australian led police initiatives do take on more work to address violence against women, including domestic violence, that this work is mindful of the constraints and disincentives to women reporting violence. These include:

- A belief that nothing will happen if violence is reported: *“In the Solomons, an over-burdened court system means that complaints often go no further than the initial report. The institutions responsible for looking at the laws were not functioning – such as social welfare, courts, and police.”*³³ Women’s Action for Change (Fiji) researched (with the AusAID Law and Justice Sector Project) the ‘no-drop policy’ for domestic violence and found that all that had changed was that instead of police dropping the domestic violence case, the courts dropped it – there was no counselling or support, and so the violence didn’t stop. The Policy ended up stopping women going to police in the first place.
- Attitudes of police: *“The laws are there but they are never used – police say that domestic violence is a private matter.”*³⁴
- Economic imperatives: *“The problem is, if husbands go to jail who will look after the family? Women have no choice, it’s their security. There needs to be economic empowerment for women first”.*³⁵
- Compensation & Fear of payback: There is an additional disincentive for a woman to report rape, either from the tension period or more recently if she is from an area where culturally she would be expected to pay compensation because of the shame brought on the family: *“If I am from Guadalcanal, if I am raped, I pay compensation to my brothers. I am twice the victim. In Malaita too this happens”*³⁶; *“Compensation through the village court does not address the root cause or gives the victim justice (just gives compensation to all relatives) – the victim still traumatised.”*³⁷ Fears of reprisals from perpetrators and their families, shame, trauma and cultural taboos continue to prevent women from freely discussing incidents of physical violence, particularly sexual assault.³⁸
- The lack of referral options, refuges, and counselling services.
- Gender issues in investigation and reporting: *“We need women police officers trained specifically with domestic and sexual violence investigation skills and deployed to rural areas. I cannot ask the questions needed of women to establish rape.”*³⁹ *“There are many girls who have been raped and seek help from MIKS – they feel too much shame when they go to the village court but feel they are in a safe a secure space when they arrive at MIKS – we explain that MIKS ensures confidentiality and make the girls feel comfortable.”*⁴⁰

There are examples where local organisations have been able to overcome these barriers (refer Box 6), and opportunities for replicating or expanding these should be supported, based on an understanding of what makes them work.

²⁹Regional Rights Resource Team (RRRT)/United Nations Development Programme (UNDP): *Social Impact Assessment of Peace Restoration Initiatives in Solomon Islands*, Pacific Islands Forum Secretariat, Suva, Fiji, March 2004, p 38

³⁰Eminent Persons Group. *Mission Helpem Fren: A Review of the Regional Assistance Mission to Solomon Islands*, Pacific Islands Forum, Suva, 2005, p. 14

³¹Solomon Islands Government, *National Economic Recovery, Reform and Development Plan 2003-2006 Strategic and Action Framework Final Report*, Department of National Reform and Planning, Honiara, October 2003 p.67

³²Interview, Senior RSIP Officer, in Honiara (29 July 2005)

³³Interview, Josephine Teakini, Director, Vois Blong Meri, in Honiara (29 July 2005)

³⁴*Ibid.*

³⁵Interview, Women civil society representatives, in Honiara, (29 July 2005)

³⁶Interview, Sarah Dyer, Women in Leadership Desk, National Council of Women in Honiara (29 July 2005), also cited in Solomon Islands: *Women Confronting Violence*, Amnesty International, 2004

³⁷Interview ,Dianah Ulku, MIKS, PNG, in Vanuatu (May 2006)

³⁸*Solomon Islands: Women Confronting Violence*, Amnesty International, 2004 p 22

³⁹Interview, Solomon Sisimia, Head of Community Police, RSIP Malaita, in Auki, (3 August 2005)

⁴⁰Interview ,Dianah Ulku, MIKS, PNG, in Vanuatu (May 2006)

Box 6: The Nana Kundi Counselling and Resource Centre (East Sepik Province, PNG)⁴¹

Nana Kundi (meaning “good talk” in the local language) is a program of the Maprik District Council of Women. The Centre was established by the highly respected and long-serving women’s leader, Lusey Goro. Lusey is currently women’s representative to the East Sepik Provincial Government. The Centre has developed over the past 10 years and grew out of training provided for women’s leaders by a New Zealand police adviser, and later by the Fiji Women’ Crisis Centre. Oxfam commenced supporting the Centre in 2006.

The Nana Kundi Counselling Centre is increasingly recognised as a de facto welfare and legal rights agency for the people of Maprik District. Cases include child welfare, polygamy and assault. The current case load of the Nana Kundi Centre is high, sometimes up to 40 cases per week. Cases come into Maprik from Kubalia area in Wewak District ESP to Nuku, in Sandaun Province.

In the beginning the Maprik police were often not prepared to take up cases of sexual violence against women and children seriously. Gradually the counsellors Nana Kundi centre have won the respect and cooperation of the local police. The services that the Nana Kundi Counselling Centre provides are also now greatly appreciated by the district court. The summonses they prepare always get successfully served and the cases prosecuted and appropriate penalties imposed. This is not always the case when the summons has been prepared by a Wewak based lawyer.

If this service did not exist, thousands of adults and children in distress and difficult circumstances would not be able to get help. Normally when Family and Child Welfare cases are reported to the police, the Complainant would be told to travel all the way from Maprik to the provincial centre Wewak (150 – 200 km away) just to get a summons. The trip would cost them K25 each way in a PMV and they would then have to find a lawyer who would charge K50 – K150 to assist with the preparation of a summons. A further expense would be the cost of staying with relatives in town. In total, a person would have to have at least K250 to get a summons. Most rural people would not readily have this amount available. Furthermore if they are in a conflict or trauma situation, and there are children involved, travel would be out of the question.

Through concern, commitment and training the local women’s leaders have educated themselves in human rights, women and children’s rights and the laws. The more active they became and the more they advocated for victims, the more the police and court officials realised that they have to be taken seriously.

Recommendation 6:

The Australian Government mainstreams strategies to address violence against women into programs to develop the capacity of police forces. These strategies should include:

- a. Prioritising investigation and processing of cases where women are prepared to come forward to develop some faith in the system.**
- b. Work with organisations such as the Fiji Women’s Crisis Centre which have experience in work to change attitudes of police (noting also the need for this to be continued through to the Courts system).**
- c. Developing skills of all police, but particularly women police, in investigating cases of violence against women.**
- d. Researching and supporting examples where community based legal support is overcoming these issues, such as the Nana Kundi Centre in the East Sepik Province.**

Section 3: Economic Management and Public Accountability

Regional Trade and Labour Policy

The focus of Australia’s aid program is upon the promotion of economic growth as illustrated in *Pacific 2020: Challenges and Opportunities for Growth*. Economic growth can substantially assist with the realisation of economic and social rights such as the right to work, to education and to health. The possibility for trade, aid and development policies of major donors and international financial institutions to have negative impacts upon human rights must also be considered. This section examines the impact of trade policies upon the potential for alleviation of poverty and attainment of human rights. In particular it considers the *Pacific Agreement for Closer Economic Relations* (PACER) and concludes that policies of trade liberalisation must

⁴¹ Information extracted from Nana Kundi Counselling and Resource Centre Project Proposal to Oxfam Australia, 2006.

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be approached cautiously. A case by case analysis is required and liberalisation that may benefit an economy the size of Australia, can have adverse effects on an economy like Tonga's (refer Box 7)

The Pacific Agreement on Closer Economic Relations (PACER)

The Pacific Agreement on Closer Economic Relations (PACER), signed at the Pacific Islands Forum leaders' meeting in Nauru in 2001, is a framework agreement "setting out the basis for the future development of trade relations" between the member countries of the Pacific Islands Forum including Australia and New Zealand (NZ).

While PACER is not a free trade agreement, it does set out the conditions under which negotiations for such an agreement between Australia/NZ and the Forum Island Countries (FICs) must begin. It specifies certain events or 'triggers' that, if they occur, will initiate the negotiation process. If none of the 'triggers' is activated before 2011, the negotiations must still begin anyway in that year.

The most likely 'trigger' is if negotiations begin between the European Union (EU) and the Forum Island Countries for a regional Economic Partnership Agreement (EPA). This process is already underway, and the EU is keen to finalise the EPA before the end of 2007. Hence negotiation of a free trade agreement with Australia and New Zealand is likely to begin soon.

Such an agreement under PACER will not provide the FICs with any more market access to countries in the region than that which they currently enjoy under existing arrangements (SPARTECA and PICTA). It is only Australia's and NZ's market access that will increase.

The removal of trade barriers to imports from Australia and NZ means that local producers in the FICs will have to face direct competition from imports from those countries. There are some sectors where Pacific based businesses are more competitive than those in Australia or NZ and where increased openness to imports will have little or no effect, garment manufacture being one example. But there are others where local businesses and producers are probably not competitive and will not survive. It will not be possible for FIC governments to use tariffs and other measures to protect local producers against imports.

In theory, the investors and workers involved in uncompetitive sectors that go out of business will then move to another sector which is competitive, for example the garment or tourist industries, thus ensuring that the country's human and financial resources are used most efficiently in producing goods that can bring maximum return. But in practice it is not as simple as that. It is not at all clear that there are sufficient employment or business opportunities in these sectors in the island economies to absorb all those displaced from uncompetitive sectors. At the very least liberalization will be very socially and economically disruptive, as people experience temporary unemployment, and it could mean increased unemployment of a more permanent nature.

The other potential effect is that Australian or NZ owned companies that established manufacturing operations in the Pacific in order to avoid tariff, quota or other restrictions on imports (for example tobacco companies and breweries) will now have no reason to do so and may move their operations back to their home country, thus causing job losses.

If as a result of increased competition imports begin to replace locally produced products, and the FICs become more dependent on imports, there will be an implications for the FIC's balance of payments. If the value of exports does not increase at the same time, the balance of payments can be adversely affected.

One area where dependence on imports is likely to increase is in foodstuffs. Already imported foods from Australia, New Zealand are available in the region at a cheaper price than those produced locally. This has significant implications for people's health, as non-traditional foods such as bread, mutton flaps and imported chicken parts replace more traditional ones such as taro and fresh fish, because they are cheaper and easier to obtain. It also has implications for food security as countries become more dependent on buying imported food from outside the region, which means having a reliable source of export earnings with which to purchase it.

There is also the important question of loss of revenue by governments from trade taxes. Most Pacific Island governments rely heavily on the income from the tariffs they charge on imported goods to generate government revenue. For Fiji, Samoa and the Cook Islands, import duties make up about 20 percent of their total government tax revenue. For Vanuatu the figure is around 40 percent, and for Tonga it was 65 percent

(although this has now decreased substantially). The loss of this revenue could impact significantly on government spending on basic services.

In most cases new forms of tax will have to be introduced to make up for this loss, and this could have far reaching consequences, particularly for the poor. The introduction of a Goods and Services Tax is seen by some as a viable alternative. But in countries like those in the Pacific this is a much more difficult tax to collect than import duties. And it will shift the tax burden from importers to consumers, from the more affluent who tend to be the ones buying imported goods to the poor who will have to pay more for their everyday items and necessities.

Trade in services

Under the Pacific Plan, there are moves to extend PACER to cover not just trade in goods but also the trade in services. The freeing up or liberalizing of trade in services means governments in the region removing barriers so that service companies from Australia, NZ or any of the FICs are allowed to operate freely in any of the other countries, and are treated in the same way as a local firm (for example by allowing them to own land or hold hotel licenses). It also means that foreign service companies cannot be kept out of parts of the local services market, such as telecoms, that are reserved for local companies.

There are many Australian and NZ companies in the services sector ready and willing to expand into the Pacific region. The additional competition from these often large and well-resourced foreign companies, plus the inability of governments under the free trade agreement to provide special conditions to support the growth of local companies will mean that it will be more difficult for local involvement in the services sector to develop or grow.

The agreement may also cover essential services, that is, allow foreign companies to come in and provide such basic services as the supply of water, health care, sanitation, education, etc. These areas may be excluded from the agreement. But if they are not, it is essential that companies providing them are strictly regulated by government, to ensure that everyone who needs these basic services are provided with them, and not just those who can afford it – and that the services are provided wherever they are needed, including in remote areas, and not just where there are enough customers to make it profitable. Companies are in business to make a profit, and are not responsible for meeting the basic needs of the population. If they are not making a profit, they may quit, leaving the government to step in at the last moment to restore the service as best it can.

Liberalization means competition – which in the right circumstances can lead to improved efficiency and lower prices. But in a competitive situation it is the strong who generally win and the weak who miss out or lose – and it may be that the former are mainly Australia and NZ businesses and the latter are those in the Pacific Islands. There are some sectors where Pacific based businesses are more competitive than those in Australia or NZ. But there are also many where they are not and in which local retailers, manufacturers and service providers will be squeezed out as liberalization proceeds, with consequent implications for employment, balance of payments and economic dependence.

Recommendation 7:

In negotiating trade liberalisation with Forum Island Countries, either as a member of a Working Party for WTO accession or as a party to PACER, the Australia Government must ensure that:

- a. Liberalisation occurs in ways that meet their development needs as small and vulnerable economies having to compete with larger and stronger economies and producers. This means allowing them to liberalise to the extent and at a pace that will allow them to benefit and the negative effects to be minimised.**
- b. Any liberalisation of investment does not remove the ability of FIC governments to regulate foreign direct investment in the national interest, nor to promote local investment and infant industries.**
- c. Any liberalisation of services does not remove FIC government's ability to regulate foreign service providers so as to ensure that all those who need essential services (health services, education, sanitation and clean water supply) are provided with them.**

d. Adequate funds are made available to FIC governments from the aid program to enable them to meet the cost of adjustment.

Box 7: WTO accession – the case of Tonga

The prioritisation of economic reform which avoids the “special and differential” needs of small island states can have big impacts on the welfare of Pacific communities.

A case in point is accessions to the WTO by Pacific Island countries (Vanuatu, Tonga and Samoa). Tonga is an example of a country being pressed to make commitments to trade liberalisation that are beyond those that Australia, New Zealand, the US and EU currently accept, in order to become a member of the WTO.

A country wishing to become a member of the WTO has to win the approval of all existing members, some of whom will make demands of the country before they will give their approval. These form the so-called ‘Working Party’ for that acceding country. Australian and New Zealand are consistently among those making the heaviest liberalization demands of acceding countries in Working Parties.

Tonga looks set not only to lose essential government revenue, but will also be cheated out of many of the tools it needs for its own economic development. There are four areas of concern.

First is the loss of government income. Most of Tonga’s revenue has come from tariffs, but they have agreed to drastically drop the rates and agree never to put them up again. At the same time the government has introduced a form of GST. The result is that more of the tax burden has been loaded on the increasing numbers of poor people in Tonga. And small businesses in Tonga lose out to foreign companies that are able to import at lower prices. Unemployment is likely to rise.

Second is the cost of compliance. Tonga has taken on obligations to change over thirty laws and put in place new administration and reporting systems. These are primarily for the benefit of foreign companies, giving them the right to challenge Tonga’s laws that may not be to their advantage. Tonga pays the bills. In other countries, these annual compliance costs are more than countries spend on development projects.

Thirdly, Tonga will lose the right to undertake a range of policies to promote the development of its economy. The rich countries are telling Tonga that liberalisation is good for them, but much of the evidence suggests otherwise. In the real world, small countries like Tonga are at a huge disadvantage, with poor infrastructure, huge transport costs and long distances to their markets. If Tonga is to develop new businesses to process their fish or agriculture, they will need government help for an initial period, until they are able to compete on world markets. Successful East Asian countries, like Malaysia and South Korea supported their domestic economy during their development. They opened up to international trade only when they were able to compete. However, small and vulnerable economies like Tonga are being asked to throw open their borders at a very early stage in their development. This risks trapping Tonga in a low wage, raw materials exporting future.

Fourthly, Tonga would lose control over its essential services. They would lock themselves into an agreement that allowed foreign companies access to hospitals, schools and broadcasting. Tonga is being asked to sign up 26 service sectors as a price for entry to the WTO. Fiji, an existing WTO member, has only signed up to one sector. Tonga is getting a bad deal.

There are other problems; Tonga loses its ability to regulate foreign companies, including the fly-by-night operators that have stolen millions from Tonga and other Pacific countries. Tonga will also remove its current controls on foreign exchange remittances, essential if they want to guard against a crisis. However, the worst aspect of this deal is what it says about good governance. When the deal is signed by Tonga’s monarchy, it will be binding on all future governments. Most of the commitments are effectively irreversible. At a time of constitutional change in Tonga, this means that any more democratic government in future will have had much of their economic policy already decided for them. This is a denial of important democratic rights. Tonga and other Pacific countries have started negotiating a trade deal with the EU, as a price for receiving aid, and have just agreed to start negotiations with Australia and New Zealand.

Pacific Labour Mobility

Australia’s Foreign Minister has recently stated that seasonal work programs cannot solve the problems of poverty and economic development facing small island developing states in the Pacific.⁴² Oxfam Australia agrees that seasonal work programs alone cannot address the many development challenges facing the region. But the creation of new opportunities for unskilled workers to access the Australian and New Zealand labour markets can make an important contribution to Pacific social and economic human rights, foster economic development, and complement Australia’s official development assistance program.

The creation of a regulated seasonal work program between Australia and Pacific island countries could have a number of benefits:

⁴² “Aussies against work schemes”, *Fiji Times*, 2 December 2005; See also transcript of interview on Foreign Minister Downer’s website, 30 September 2005: http://www.foreignminister.gov.au/transcripts/2005/050930_abc.html

- creating employment opportunities for the growing numbers of unskilled workers in the region, without requiring permanent migration;
- providing an additional source of remittances that make an important contribution to social and economic development in many Pacific island countries; and
- providing a legal avenue for Pacific islanders to work in Australia without “overstaying” or breaching their visa conditions;

The 2003 Senate inquiry into Australia’s relations with Papua New Guinea and the Pacific Islands placed special emphasis on “people to people links” and “initiating and supporting activities designed to enhance awareness, understanding and interaction between the peoples and institutions of the region.”⁴³ Oxfam Australia believes that a seasonal worker programs should be designed to promote community linkages between regions in Australia and our nearest neighbours. There should be a strong emphasis on skills training by host governments and employers and on encouraging positive interaction between the seasonal workers and their host communities. The recruitment of seasonal workers from a particular region or province on a yearly basis would provide the opportunity for community to community links involving churches, service clubs, women’s organisations and other community groups in the two countries.

Church and community organisations in Australia and the islands could also provide a crucial role in supporting seasonal workers with pre-departure information on labour rights, working conditions, cultural adaptation and social issues (like HIV and AIDS, substance abuse etc). There is significant potential for non-government development and volunteer agencies to work in areas to support returning seasonal workers (eg in micro-finance, skills training or small business programs).

The Australian government agency AusAID should investigate the possibility of co-ordinating development and investment programs in areas where seasonal workers are returning. There are a number of innovative models (eg Mexico’s 3 x 1 program) which could be adapted, providing government grants to supplement investment of remittances in business and development activities.

Recommendation 8:

That the Australian Government implements a series of pilot programs for seasonal workers to travel from the Pacific to Australia, as a contribution to poverty alleviation in the region. Programs should:

- a. **be well regulated with involvement of government, employers’ and workers’ organisations, to ensure that core rights are maintained (labour rights, working conditions, health and safety laws).**
- b. **adhere to core labour conventions and standards with safeguards built in to protect workers’ rights and guarantee freedom of association.**
- c. **be well monitored in terms of gender, social, cultural and political impacts, so the economic benefits of remittances can be weighed against the social costs.**
- d. **investigate opportunities for women as well as men to join seasonal work programs, with training for work in non-traditional areas and appropriate community support and advice (eg on sexual harassment, childcare etc).**
- e. **include strategies to mitigate negative consequences of “mobile men with money” (eg. the SPC’s Regional Maritime Program has developed social responsibility modules for seafarers from Kiribati and Tuvalu).**

Private Investment, Extractive Industries, Australian Aid and Human Rights

Private sector investment in developing countries now dwarfs the flow of official aid. The Australian Aid program is also at times actively involved in promoting extractive industries as a key strategy in economic

⁴³ Senate Foreign Affairs, Defence and Trade References Committee: *A Pacific Engaged - Australia’s relations with Papua New Guinea and the islands of the south west Pacific* (Canberra, August 2003), p224

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growth, often involving Australian companies.⁴⁴ But while development of extractive industries may lead to economic growth, it does not necessarily lead to poverty alleviation or the promotion and enhancement of human rights. Indeed, many of the world's most resource-rich countries are also the world's poorest in economic and development terms; developing countries that rely heavily on oil or mineral exports tend to suffer higher rates of poverty and child mortality, and spend more on their militaries than similar countries with more diverse economies.⁴⁵

Mining, oil and gas resources are of increasing importance to many countries in the Pacific, including Papua New Guinea, the Solomon Islands, and Fiji - they provide a vital source of revenue to pay for basic social services and infrastructure. Extractive industries can contribute to poverty reduction if appropriate regulations and controls exist. Yet, poorly regulated activities undermine people's rights and destroy the environment. The private sector is rightly under increasing pressure to be accountable for the social and environmental consequences of its actions. In the Pacific, local communities have become victims of human rights abuses and environmental degradation due to irresponsible practices by, or on behalf of, extractive companies, including Australian companies.

Transparency and accountability initiatives and reporting practices

Oxfam International is a member of the Publish What You Pay (PWYP) coalition—a 250 NGO strong initiative which calls for 'reciprocal reporting', wherein corporations not only openly report their revenues, but governments report their earnings from those corporations. Transparent revenue reporting and accountability, as espoused by PWYP and initiatives, such as the Extractive Industries Transparency Initiative - launched in 2002 by British Prime Minister Tony Blair—indicate the progressive support for open fiscal reporting through a range of jurisdictions. These initiatives also offer productive models on which to base transparency and accountability legislation.

Box 8: Civil Society Accountability Training

Oxfam Australia has recently undertaken joint training with Publish What You Pay in Timor Leste to increase civil society awareness of the need for revenue transparency as a means of advancing good corporate responsibility including submissions to the drafting team and then the Parliament on the drafting and approval of the Timor-Leste Petroleum Fund Act. This training is also easily adaptable to a Pacific context and includes training in community-level revenue monitoring and budgeting practices and evaluation methods. Similar methods are also outlined in the Revenue Watch guides "Follow the Money" and "Covering Oil".⁴⁶

Recommendation 9:

The Australian Government to pursue an aid program which encourages:

- a. the development of corporate accountability measures that run parallel to any support by the Australian aid program to extractive industries;**
- b. training of Australian mining companies in development issues and the importance of a human rights focus to development;**
- c. improvement to host country environmental and social impact assessment measures and requirements in relation to extractive industry projects;**
- d. improvement of host country regulatory standards for environmental, health and social impacts of mining, oil and gas operations (including, for example, establishment of water quality standards based on current international WHO standards);**
- e. development of independent complaints mechanisms within host countries which would provide an avenue for resolution of local peoples' concerns regarding mining, oil and gas operations;**

⁴⁴ For example, AusAID, *Solomon Islands: Transitional Country Strategy 2006 To Mid-2007*, (2006), 23, lists the re-opening of the Australian operated Gold Ridge mine in the Solomon Islands as a key aspect of encouraging "broad-based growth".

⁴⁵ Oxfam America, *Extractive Sectors and the Poor*, (2001). See also, Pegg, S., *Poverty Reduction or Poverty Exacerbation* (2003), both available at www.oxfamamerica.org.

⁴⁶ See: Shultz, J. (2005). *Follow the Money: A Guide to Monitoring Budgets and Oil and Gas Revenues*. New York: Open Society Institute.; Tsalik, S. and Schiffrin, A. (eds.) (2005). *Covering Oil: A Reporter's Guide to Energy and Development*. New York: Open Society Institute.

- f. implementation of transparency mechanisms in relation to environmental, social and financial reporting of mining, oil and gas operations (including, but not limited to implementation of the Extractive Industries Transparency Initiative);
- g. host state transparency in relation to the use and distribution of revenues from mining, oil and gas operations;
- h. host state regulation which seeks to ensure that companies obtain the free, prior and informed consent of communities that are likely to be affected by mining, oil and gas operations;
- i. collaboration with Austrade to ensure that Austrade's promotion of Australian suppliers to PNG and other Pacific countries' mining sectors is undertaken in such a way as to prioritise Australian companies that have sound environmental and social responsibility policies and practices.

Complaints Mechanisms

Oxfam Australia's Mining Ombudsman project has highlighted some of the instances in which Australian mining companies have failed to respect and protect the human rights of local peoples (see example in Box 9). The project demonstrates the need for an independent extractives industry complaints mechanism for Australian mining companies. Unlike many other Australian industries, the extractives industry does not have a grievance or complaints mechanism. Such a mechanism would supply local communities with the ability to defend their human rights and hold companies to account.

Box 9: Mining Ombudsman investigation into Tolukuma Gold Mine in Papua New Guinea

The Tolukuma Gold Mine (now owned and operated by Emperor Mining) discharges 168,000 tons of tailings into the Auga-Angabanga River system annually. The women and men living along the river are concerned about negative impacts on the environment, on their ability to grow enough food and on their health, including the unexplained deaths of over 30 people. They are also concerned about Emperor's plans to expand operations.

Following the initial investigation by Oxfam in August 2001, the Mining Ombudsman undertook an extensive evaluation at Tolukuma in January 2004, interviewing numerous local community men, women and youth affected by the mine, attending community meetings, and meeting with key representatives of various local organisations, government and mine management. The Mining Ombudsman found that community grievances had not been substantially addressed since being raised in 2001.

The Mining Ombudsman also commissioned scientific studies of the water quality in the Auga-Angabanga river system and in wells used for drinking water by some downstream villages. The results of these studies raise serious concerns about the impact of the mine on downstream communities. In particular, the studies indicate that the discharge of tailings from the mine is causing ongoing pollution to the river by sediment and toxicants including arsenic, while some wells contain arsenic at levels that are close to or higher than the WHO acceptable maximum level. Affected wells and the river water are not suitable for the long-term supply of drinking water given the potential for adverse health impacts. The reports also analyse TGM's own environmental tests, which show that it has frequently exceeded compliance criteria for levels of arsenic, lead, mercury, ammonia and cyanide.

Recommendation 10:

Conduct an inquiry into the environmental, social and fiscal impact of the foreign operations of mining, oil and gas companies incorporated in Australia (with particular reference to the contribution that may be made by an independent complaints mechanism with responsibility to investigate issues in relation to the foreign activities of Australian-incorporated mining oil and gas entities).

Contribution of the Australian Government and Australian aid program to human rights in the Pacific

Australia's aid program can influence the extent to which the exploitation of mining, oil and gas resources contributes to poverty reduction and improved livelihoods in the Pacific. In particular, the aid program can encourage accountability mechanisms to ensure that revenues derived from extractive industries contribute to poverty alleviation; and can promote governance policies and regulations that limit the detrimental impact of these operations on the environment and peoples.

Within Australia, the Government has an important opportunity to position Australian corporations as global leaders in corporate social responsibility. Appropriate government action on this issue could boost

corporations' transparency and accountability, mitigate negative impacts in developing countries, and improve Australia's corporate competitiveness and reputation on a global scale. Oxfam Australia considers that Australian companies should accept responsibility for the economic, social and environmental impacts of company operations, wherever those operations are located.

Recommendation 11:

Implement measures requiring Australian companies to:

- a. uphold universal human rights standards, especially those in UN Conventions ratified by the Australian Government;**
- b. uphold labour rights;**
- c. operate in ways which will minimise or preclude environmental damage;**
- d. implement the principle of Free, Prior and Informed Consent (FPIC)**
- e. practice transparent revenue reporting, including in relation to payments made to governments of resource-rich nations (consistent with the principles promoted by the Extractive Industries Transparency Initiative)**
- f. operate in ways that promote sustainable development and livelihoods in the communities in which they work;**
- g. as a minimum, work to Australian standards regardless of the location of the operation (if standards of the host State are higher in terms of promoting social and environmental responsibility, then those higher standards should apply).**

Section 5: Good Governance, Accountability and Civil Society Development

Oxfam Australia supports the Australian Government intention to establish a *Building Demand for Better Governance Program*,⁴⁷ to support strategic partnerships to increase domestic demand for reform and accountability in Asia-Pacific countries. It foreshadows increased direct support for non-government organisations, both in partner countries as well as Australian organisations.

Definition of Governance

There is an agreement that Governance is important but it is less clear what it is. Overseas Development Institute (ODI)⁴⁸ research notes that what is agreed is:

- That it is about how things are done as much as what is done.
- That it is about more than governments – it is about the public sphere too, and from the perspective of poverty eradication in particular needs to recognize the importance of empowering poor people and strengthening their social, economic and political capabilities, as well as having the political framework in place for them to claim their rights
- That it is instrumental in achieving MDGs as well as constitutive of the development process⁴⁹, and thus both a result and contributor to it.

ODI suggests six main arenas of Governance:

- *Civil Society*: where citizens raise and become aware of political issues
- *Political Society*: where societal issues are aggregated
- *Government*: where executive stewardship of the system as a whole occurs
- *Bureaucracy*: where policies are implemented
- *Economic Society*: where state-market relations are determined
- *Judiciary*: where disputes are settled

And six main principles:

- *Participation*: the degree of involvement by affected stakeholders
- Fairness and the Respect for Law and Human Rights: the degree to which rules apply equally to all
- *Decency*: the degree to which the formation and stewardship of rules is undertaken without humiliating or harming people
- *Accountability & Legitimacy*: the extent to which political actors are responsible to society for what they say and do,
- *Transparency*: the degree of clarity and openness with which decisions are made
- *Competence and Efficiency*: the extent to which limited financial and human resources are applied with unnecessary waste, delay or corruption

Oxfam defines Governance in the context of this submission as being about the relationship between different institutions of society and the degree to which they produce open, accountable, effective processes which benefit those living in poverty.

⁴⁷ AusAID (2006), *Australian Aid: Promoting Growth and Stability. A White Paper on the Australian Government's Overseas Aid Program*, p.12, 43, 62.

⁴⁸ Court, J. (2006) Governance, Development and Aid Effectiveness: A quick guide to complex relationships, ODI briefing paper March 2006 http://www.odi.org.uk/publications/briefing/bp_mar06_governance.pdf

⁴⁹ See Amartya Sen (1999) *Development as Freedom*, Oxford University Press

From Users and Choosers to Makers and Shapers

The last thirty years has seen a gradual transformation in the development arena of the concept of participation. As Andrea Cornwall and John Gaventa of IDS have noted from the 1960s and 70s the growth in citizen participation in community health groups, water user groups, parent teachers committees and so on has been an important phenomenon. However this was increasingly questioned – not least by these groups themselves - as being too limited. This led to a growing demand for not just an involvement in what were often pre-determined services or projects, but about active participation in the one hand on provisioning – including self-provisioning and the promotion of alternatives - and on the other on policy formulation and monitoring.

Moreover this more active participation began to be seen not as something that was at the discretion of the service provider or project manager, but as basic civil right. “*Increasingly then the concept of participation began to move from one of users and choosers of services provided by others to one in which people became actors and agents in broader processes of governance.*”⁵⁰

This has led to the establishment of different consultative mechanisms which can start to assert the legitimacy of the knowledge and views of ordinary people and redefine ‘expertise’ in terms that give greater credence to the experiences of those whose lives are directly affected. However it is also clear that these same mechanisms can also reinforce the views and opinions of the strong, the powerful and the vocal.

How to promote Choice, Voice and Responsiveness in Practice

There are a growing number of documented case studies that indicate that not only are more ‘demand-led’ governance and greater accountability mechanisms possible in practice, but they can also be done at a scale sometimes thought unlikely. These include, amongst others, reports produced:

- By Ian Anderson in the AusAID paper *Fragile States: What is international experience telling us?*
- By the World Bank in its paper *Making aid work in fragile states: case studies of effective aid-financed programs.*
- By USAID as part of its ‘Transparency in the Americas’ project.
- By DFID through its Poverty Reduction in Difficult Environments Team which has produced a number of working papers in particular looking at approaches to “improving the delivery of social services in difficult environments”.
- By Transparency International, the International Budget Project, the Global Reporting Initiative and Global Integrity.
- By Richard Holloway as part of his *Anti-Corruption Handbook*
- By Marisal Estrella and Nina Iszatt in their edited collection of experiences in the Philippines as documented in *Beyond Good Governance: Participatory Democracy in the Philippines.*

These include initiatives to develop: participatory, gender sensitive and transparent budgeting; citizens planning processes; anti-corruption drives and campaigns; monitoring of government privatization and contracting processes; and campaigns on the right to Information and freedom of association.

Two examples that Oxfam has been involved in which might give a greater flavour of this are from Uganda (refer Attachment 1) and from our response to Tsunami in Sri Lanka (refer Attachment 2).

Examples from the Pacific

Although more has been written about experiences in Africa and Asia, there are a number of areas where “bottom up-accountability” is already being practiced in the Pacific:

Community radio: In the lead-up to the 2006 elections in Fiji, an innovative program of community broadcasting has allowed women to take to the airwaves to talk about their priorities. Through the “Not just sweet talk” project, FemLink has taken a portable suitcase radio to local communities in Ba, Nadi and

⁵⁰ Cornwall, A. and Gaventa, J., ‘From Users and choosers to Makers and Shapers: Repositioning Participation in Social Policy’, IDS Working Paper 127, Institute of Development Studies. 2001, p4) available at <http://www.ids.ac.uk/ids/bookshop/wp/wp127.pdf>

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Nausori to allow communities to discuss their hopes for the election and broadcast their concerns to their local community. Participants were able to write and record their stories, including vision statements for the community radio broadcast - they worked together to develop a series of statements identifying what they see as national development priorities for the incoming government, as well as a message for whoever will be the next Prime Minister of Fiji. There are similar examples from PNG (HELP Resources community radio program), Vanuatu (Wan Smol Bag's '*Famili Blong Serah*' (Sarah's family)), and the Solomon Islands (*Vois Blong Meri* (Women's Voice)).

Promoting the role of women in governance: Soon after the PNG National Election in 2002, women in the highlands of PNG who had stood for local and national government elections decided to form *Meri i Kirap Sapotim* (Women arise, support them). MIKS is working to increase women's participation in decision-making but also challenging deep-rooted attitudes and barriers that prevent women from holding a position of power in the local tribal councils and in national government. The group are promoting the right of women to claim their stake as equal partners in nation building.

Educating people about elections: Oxfam partners MIKS and HELP resources conduct voter education programs in PNG. MIKS aims to help people, and women in particular, realise what they can and should expect from a democratic system by conducting community based education for women and men about the electoral system, the PNG constitution, women's rights and women's role in leadership, and what good local government should be able to achieve. They also discuss the concept of development and how good local government can support development. Voter education is also carried out through church networks. At the last national elections in Papua New Guinea, Caritas PNG conducted an election awareness campaign to challenge vote rigging, fraud and "pork barrelling". Through Caritas' church network, the campaign informed the rural electorate about their voting rights and responsibilities, through community workshops, media advertisements, posters and other literature distributed throughout the community.

Shadow reporting: Pacific NGOs are also involved in developing "shadow" reports to United Nations, Commonwealth and Regional committees, to parallel official governmental reporting. For example, the Regional Rights Resource Team (RRRT) has provided technical and financial support to Fiji NGOs in the compilation of the NGO Shadow report on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which was praised for being comprehensive and constructive. To share the Fiji experience with other Pacific countries, RRRT produced the "CEDAW Roadmap" as a practical guide for Pacific Island governments and NGOs.⁵¹ The publication demystifies the report writing and presenting process and clarifies government's obligations and the role of NGOs in the reporting process.

Getting the message to the chiefs: "Bottom up" governance also involves activities at village level, to ensure that community leaders engage with all members of the village in decision making. Oxfam Australia is currently supporting an innovative youth program in Vanuatu, supporting a youth community centre on Pentecost Island. The centre provides a neutral space where young people from local villages and different religious denominations can meet to articulate their concerns in a peer-managed process. The centre management also includes representatives of the local chiefs, providing an informal mechanism for dialogue between young people and their community leaders.

Governance or Service Delivery – it's not an either/or

These case studies and research done by DFID suggest that the "Governance or Service Delivery" conundrum is potentially a false dichotomy. DFID research argues that "the international community should emphasise service delivery as a key entry point to further development in difficult environments". They give four reasons for this:

1. MDG targets will not be achieved without increased access to services in these contexts;
2. There is a 'humanitarian imperative' to respond to a situation where people's access to services is poor;
3. Service delivery can offer an entry point for triggering longer-term pro-poor social, economic and political change; and finally,
4. Service delivery may help to prevent some states from sliding (back) into civil conflict by addressing the structural causes of the conflict.

⁵¹ Regional Rights Resource Team: *CEDAW Roadmap: Reporting before the Committee* (RRRT, Suva, 2003).

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As others have noted “We know from post-conflict situations that a perceptible “peace dividend” has to materialise quickly in the form of economic and social improvement for the general population to enable the political process to continue.”⁵²

It is therefore welcome that in the White Paper that fostering functioning and effective states and investing in people are both key organising themes. Experience elsewhere suggests that health and education services can be delivered and monitored in ways that build a new relationship between citizen and state. However, over the last four years, funding for law, justice and governance programs has jumped from 17 per cent to 36 per cent of Australia’s aid program. Fostering good governance is important, but aid programs that only target parliamentary reform, political parties and state institutions are not enough in themselves. Our aid program should also support an increase in the demand for good governance at the community level, so ordinary people can hold governments, corporations and donors to account.

The need for flexibility, learning and adaptation

Most successful case studies suggest that local experimentation, action-learning and adaptation to local circumstances are critical success factors. As DFID note⁵³ “there is no single approach: fragile state contexts are too varied, and opportunities too specific; development actors should avoid ‘one size fits all’ proscriptions such as ‘budget support is inappropriate in fragile states’ or ‘civil society organisations are the answer’. Experience in a growing number of cases shows that a focus on context and policy objectives, combined with an imaginative and flexible use of various instruments, can have a significant impact”. The White Paper makes similar points.

Much of what needs to be done therefore in situations like this cannot be routinized but requires the judgement of imperfect information by skilled decision makers. In addition many of the outputs from such processes have low ‘specificity’ i.e. awareness-raising, capacity building, appropriate consultation, participatory evaluation, and research. In these cases of low specificity which are highly discretionary, monitoring performance through centralised bureaucratic process using pre-determined indicators and standards can be highly problematic.⁵⁴ As Hirschman and others have argued an important alternative is what he calls “voice” options, which attempt to give those who are ultimately meant to benefit from a particular service or process much better access to information and decision-makers in order to hold providers responsible.

Much of the literature on monitoring and evaluation, and certainly Oxfam’s experience, suggests that some of the biggest challenges for any form of bottom-up accountability are whether the feedback provided actually changes anything in the institution(s) in question. Most of our organisations have effective means of ignoring findings which challenge us. This suggests that the challenge is as much to look at how open we are to dealing with difficult information about our performance, as it is to develop sophisticated methods, which produce results that we might subsequently ignore.

This is particularly the case given the current emphasis on outcomes and impact; and achieving these in partnership with others. The great irony is that although there is certainly an increased rhetoric of being outcome-focused, working in partnership with others and becoming more accountable to those we seek to serve, at the same time the need to ‘prove’ what difference individual organisations make is becoming more common⁵⁵. This leads to the managerial tendency to focus more on intermediate outputs, objectives and targets as measures of performance as they are more easily attributable to specific actions. Indeed “Output Based Aid” as cited in the White Paper is a good example of this approach.

However, as outcomes and impacts are longer-term by definition as well as being likely to be achieved with others, this actually makes attribution to single organizations harder. This tendency therefore can provide perverse incentives to a) downplay or ignore the contribution of others, b) stick to outputs or intermediate objectives and targets, even when they may not be the most effective means of achieving broader or more long-term objectives and c) to downplay professional judgement particularly on qualitative and difficult to measure

⁵² See Hopp, U. and Kloke; Lesch, A. (2004) External Nation-Building vs. Endogenous Nation-Forming – A Development Policy Perspective Published in: Jochen Hippler (ed.) (2004) Nation-Building A Key Concept for Peaceful Conflict Transformation?

⁵³ Leader, N. and Colenso, P. (2005) Aid Instruments in Fragile States, PRDE Working Paper

⁵⁴ See Fukuyama 2004 for a longer discussion on this.

⁵⁵ See Roche, C., Partnering for Development Results – An NGO Perspective, Paper for DFID/UNDP Conference on Enhancing Development Effectiveness: the contribution of results based management, Oxford, 25-26th September 2001

variables⁵⁶, d) neglect the voices of local people in assessing the quality of services provided or outputs produced.

As Onora O’Niell points out ‘if we want a culture of public service, professionals and public servants must in the end be free to serve the public rather than their paymasters’. Oxfam’s experience suggests effective bottom-up accountability can provide an important complement to current public management orthodoxies. In fact, arguably it provides a powerful means of correcting potentially perverse incentives that current mechanisms can promote. At least it might if our agencies are willing to open ourselves up in this way. It will be important that the Development of Performance Outcomes, the linking of Aid Allocations to deliverables and the work of the Office of Development Effectiveness takes these issues into account. The recognition that some of these initiatives will need to be experimental is to be welcomed. It will be equally important to ensure that the welcome proposed increase in front-line staff will not lead to simply more people being confronted by contradictory accountability processes which downplay listening to local people and partners and responding to their reality.

Above all, as government and non-government agencies alike, we must accept that issues of transparency, accountability and good management apply as much to donors as to recipients. Pacific critics have noted that the good governance agenda “is seen by some as a way of explaining the disappointing lack of progress which emanates from basic flaws in the donors’ policies; by others as a device for legitimating a reduction in aid volumes; as a means of disciplining states which fail to provide the capacity for the implementation of projects; and as a means of assuaging domestic discontent by those in donor states facing new austerity measures associated with economic restructuring.”⁵⁷

Recommendation 12:

The White Paper strategy to ‘strengthen the performance orientation of the aid program’ takes the need for flexibility, learning, and adaptation into account, and that the proposed Office of Development Effectiveness is given the space to develop more innovative ways of developing the Government’s ability to ‘listen’ as well as developing more orthodox methods of assessing effectiveness.

The need to rethink the relationship between different actors

Apart for it being clear that programs will involve many actors, state and non-state, it is also clear that it is the relationship between these different actors that needs to be thought through. For example it is clear that poorly designed international interventions – whether by NGOs, government agencies or the private sector – can inadvertently change the relationship between states and their citizens. It is worth noting that some observers⁵⁸ for example suggest that the Australian government “in attempting to protect the perceived source of their political support...have managed to undermine its actual source – the ordinary people of the Solomons...This in turn has allowed the tiny criminal minority ...the opportunity to exploit a growing distrust among ordinary citizens of RAMSI.”

Similarly Joe Stiglitz and others have noted that processes of structural adjustment, liberalization and aid conditionality have also had detrimental effects by tending to make national government more accountable to external actors than their own citizens, as well as on occasion curbing the ability of governments to deliver the services that would give them legitimacy in the first place.

Civil Society engagement and putting “bottom-up” processes of accountability can be put into place in a very practical sense and mechanisms can be established, but this is lot easier if a) a prior investment in social infrastructure and in relationship building with local organisations has been made, b) there is a major effort to do so, and this is not undermined, and c) initiative and innovation in this area are positively encouraged. However ‘real’ bottom up accountability to the community requires three things: knowledge of entitlement, availability of credible grievance and redress mechanisms and empowerment to access them.

⁵⁶ See Roche C (2002), Partnering for Development Results – An NGO Perspective, Paper for DFID/UNDP Conference on Enhancing Development Effectiveness: the contribution of results based management, Oxford, 25-26th September 2001

⁵⁷ Cluny McPherson and La’avasa McPherson: “Where theory meets practice – the limits of the good governance program” in Elise Huffer and Asofou So’o (eds): Governance in Samoa – pulega i Samoa (Asia Pacific Press, Canberra, 2001). See also Barrie Macdonald: “ ‘Good’ governance and the Pacific Island states” in Peter Lamour (ed): Governance and reform in the South Pacific, Pacific Policy Paper No.23 (NCDS, Canberra, 1998).

⁵⁸ For example Mary-Louise O’Callaghan in the Australian on 21 April 2006

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It is interesting to note that from both civil society organisations and local government officials that the actual experience of working together in different ways can change mutual perceptions in quite fundamental and positive ways.

Recommendation 13:

The role of external actors needs to contribute to at least three things:

- 1. Strengthening the ability of Civil Society organisations to hold Governments to account**
- 2. Strengthening the ability of Governments to respond to these demands**
- 3. Helping to ensure the external pressures do not undermine the incentives for Governments to be accountable to their citizens.**

The White Paper notes the importance of partnerships and local ownership by “partner governments”. However it is unfortunate that in parts of the document NGOs are described as “delivery mechanisms”⁵⁹ or “implementing agencies in the key sectors of infrastructure, rural and private sector development, health and education”⁶⁰ which the Aid Program can “make continued and increased use of”⁶¹. Whereas as in the *Combating Corruption Strategy* it is recognised that it is important to build demand for transparency and anti-corruption within countries and that Australia will “build on its support for organisations that have the potential to play such a role”.⁶² NGOs and community groups in the Pacific are engaged in a debate about whether to, and how to, engage in dialogue with their government or multilateral agencies. The kind of wording in the White Paper will fuel a concern that government and donors regard NGOs as simply a means to deliver services that under-staffed and under-resourced government bureaucracies cannot or will not provide. If one conceives of the role of local and International NGOs as much more than “delivery mechanisms”, seeing them as part of a key process of holding governments to account, then the potential for supporting more demand led governance as an integral part of nearly all the NGO and civil society work that AusAID supports would be hugely multiplied.

In addition, donor programs on good governance have emphasized to some extent the role of civil society and “non-state actors” (churches, NGOs, private sector organisations, trade unions). However, these programs have often failed to define the place of customary authorities and indigenous structures that are so important in the islands region - the Western dichotomy of state / civil society doesn’t address the place of chiefs or kinship groups.

Recognising the International Dimension to Accountability and Avoiding a Backlash

As Philippe Sands the International Human Rights Lawyer notes:

“Democracy reflects the emergence of a universal expectation that those who seek a validation of their empowerment – the governors – should govern with the consent of the governed. Democracy has invariably been addressed as a national issue, giving rise to the principles of self-determination, freedom of expression and the emergence of a normative entitlement to participate in electoral and other decision making processes. Increasingly it is seen as encompassing the right of access of information, and to administrative and judicial remedies to challenge administrative acts which wrongly interfere with rights. Democratic claims too are being internationalized. If participatory democracy is relevant to the national levels of government then why should it not also apply at the international level, where so many decisions which affect people’s lives are now taken?”⁶³ (Sands, 2005, p18)

It is therefore welcome to see the references to regional and global anti-corruption initiatives in the White Paper⁶⁴ such as the Extractive Industries Transparency Initiative and the Government could do more [See below for further discussion]. However, as Thomas Carothers has noted in his article “The Backlash Against Democracy Promotion” in the March/April 2006 edition of *Foreign Affairs*, “some governments are starting to

⁵⁹ AusAID (2006), *Australian Aid: Promoting Growth and Stability. A White Paper on the Australian Government’s Overseas Aid Program*, p.64

⁶⁰ *Ibid.* p. 53

⁶¹ *Ibid.* p. 64

⁶² *Ibid.* See Initiative Box 15 ‘Anti-Corruption for Development’ pp. 61 and 62 and Initiative Box 5 ‘Building Stronger Leadership’ p. 43

⁶³ Sands, P. (2005) *Lawless World: Making and Breaking Global Rules*,

⁶⁴ *Ibid.* p. 61

denounce Western democracy assistance as illegitimate political meddling...and have won public sympathy by arguing that opposition to Western democracy promotion is resistance not to democracy itself, but to American interventionism. Moreover, the damage that the Bush administration has done to the global image of the United States as a symbol of democracy and human rights by repeatedly violating the rule of law at home and abroad has further weakened the legitimacy of the democracy-promotion cause

If one is not to give an excuse to such leaders to behave in this way then consistency is required from donor governments such as Australia a) in respecting human rights generally e.g. in relation to adherence to International law regarding refugees, and b) in not undermining local civil society organizations who may be pushing for local and international accountability. The example of the de-funding by AusAID of the Timorese NGO Forum Tau Matan (FTM) is germane here. AusAID had originally agreed to fund FTM to monitor the judicial system and prison conditions in Timor under the AusAID Human Rights Small Grants scheme. However because FTM signed a September 2004 press release entitled "Timor-Leste Civil Society Demands Fair Boundary" this funding was cancelled⁶⁵. So in essence, an organization that is pushing for human rights and accountability in Timor is now less able to do so because it disagreed with an Australian policy position.

The potential backlash and sensitivities involved in supporting demand led governance are real. Governments that are partners of the Australian government may well portray it as meddling in their sovereign affairs. Done insensitively it may lead to local organizations being put at risk. However there are a number of experiences from around the world and in our region that show that progress can be made and practical steps can be taken which government's either support or learn to live with. Throughout the Region, people are demanding that governments provide jobs and basic services; they are calling on corporations to address the social and environmental impacts of logging, mining and fisheries projects; and they want overseas aid donors to ensure that development assistance focuses on poverty reduction, human rights and rural livelihoods. "Bottom up" accountability can greatly improve the effectiveness of aid, as community groups monitor that donor funding translates into budgetary support for schools, health clinics or HIV drugs.

International NGOs have many years of experience of sensitively supporting local organizations in extremely difficult circumstances. There is potential for AusAID and NGOs to therefore work together in order to limit the potential for a backlash, and to determine how sensitivities might be overcome.

⁶⁵ See the La'o Hamutuk Bulletin Vol. 6, No. 4: November 2005 <http://www.laohamutuk.org/Bulletin/2005/Nov/bulletinv6n4.html#AusAID>
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Attachment 1. The Uganda Debt Network (UDN)⁶⁶

The Uganda Debt Network was established 1996. The Network had been instrumental in campaigning for debt relief as well as developing a civil society response to holding the government to account for spending that relief in an accountable manner. This was assisted by ensuring that debt relief was allocated to a ring-fenced Poverty Action Fund established in 1997/8. UDN established Poverty Monitoring Committees in the first instance in 12 out of 45 districts, and then in 17. This then developed into Community based Monitoring and Evaluation systems which included:

- Courtesy calls on district and sub-county officials.
- Mobilisation of communities done by Poverty Monitoring Committees (PMCs).
- Meeting held between UDN and PMCs to develop the selection criteria of pilot areas and community representatives.
- Meetings held under trees and shop verandas to select community representatives.
- Skills Development Workshops held at district level to orient participants in the learning process, skills acquisition, development of indicators, monitoring tools – including Budget Performance Monitoring Scorecards, monitoring structures and follow up mechanisms at various levels.
- Workshops held at sub-county and district levels for debriefing of findings.
- Community people carrying out monitoring using their own developed tools which they used to collect qualitative data, analysis of information.

Examples of some of the results from this process are:

Education

“In Kiwungu and Nakanoni, (Butansi sub county), teachers’ constant absenteeism and dodging classes is no more. This may enhance performance in the mentioned schools.”

“Improved construction with proper mixing of sand and cement.”

“In this case, community members from Kakanju Sub-county presented a complaint in which a former Headmistress of Kakanju primary school was transferred after she had been alleged of stealing the school iron sheets. The community reported the case to the responsible authorities. By the inception of the CBMES Pilot, no action had been taken after two years of lodging the complaint. The Community members brought the issue forward to the attention of the District Officials as part of the findings from monitoring at a Dialogue organised by UDN, August, 13 2002 in Bushenyi District. To date, a report of follow up from the communities has revealed that the District Officials followed up the case. The culprit returned the amount of money equivalent to the stolen property. Iron sheets have now been bought and returned to the school.

Health

Kakanju Health Center III - Community had reported poor health services which had been aggravated by: bribery to get served, Patients buying of their own syringes and medicine from the local shops, poor hospitality of Medical personnel, late opening of health centres, and breaking off early of medical personnel. Achievements were:

- The Health personnel are now punctual and the Centre opens and closes in the right time.
- Drugs are now available and delivery is done twice in a month.
- Packaging materials and syringes are available at a free cost to the patients.

Governance

“The police no longer ask for bribes from the community “(Bugaya Sub-county).

⁶⁶ See <http://www.udn.or.ug/>

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“Prompt payment of workers by sub-county chiefs and other civil servants e.g. census, immunization mobilisers, etc. Increased transparency and accountability of civil servants evident with the display of LGDP Funds by Sub-county authorities (Bugaya S/County)”

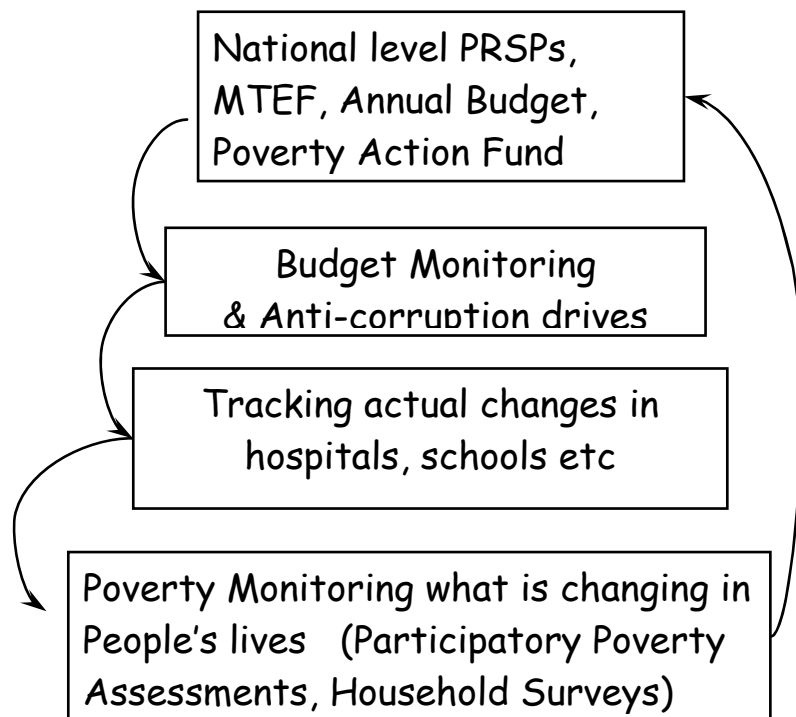
“Regular inspection of schools by school inspectors has resumed.”

“Sub-county workers are paid their full allowances; initially, Sub-county chiefs in Butansi Sub County would make reductions.”

These qualitative assessments were complemented by scoring against criteria developed in the Budget performance scorecard:

SCORE CARD FOR UTILISATION OF UPE FUNDS		
Objectives	Indicators	Score /5
1. To improve efficiency in utilisation of UPE funds and reduce complaints from teachers and parents	1. School performance- P.7 results	
	2. Availability of scholastic materials	
	3. Teachers/parents aware of how funds are spent	
	4. Parents' meeting taking place	
	5. Minutes of the meetings available	
	6. Display of accountability on the school notice boards	
	7. Display of received funds	
	8 Sign posts for schools	
	9. Sports facilities for pupils	
	10. Gifts and presents, and food provided for sports pupils	
2. To ensure funds are used as per work plan or budget allocation	1. Government release of funds – timeliness	
	2. Headmaster's transparency in using the funds	
	3. The performance of the school finance committee	
	4. The performance of the school management committee	
	5. Ways in which above committees were formed	
	6. Display of releases and transparency in budgeting	
3. To eradicate poverty	1. Number of pupils in schools because of UPE	
	2. Relief on the part of parents; e.g. ability to buy uniforms or make other investments out of saved school fees	
	3. Ability of UPE beneficiaries to continue in higher institutions	
4. To ensure head teachers make timely accountability to encourage good practice.	1. Regularity of meeting convened by Headmaster	
	2. Head teachers' openness and transparency e.g. in budgeting and work planning	
	3. Accountability of funds budgeted and received	
	4. Display of received funding in public place – notice board	
	5. Visible items purchased	
	6. Corresponding receipts of purchased items	

The Link between National and Local level Monitoring Processes in Uganda



The complementary nature of these two processes – see diagram above - indicate that through a combination of civil society driven processes and innovative government partnerships a representative sample of the input-output-impact chain can be created which can permit a sound triangulation of findings at different levels. For example the PPAs revealed that although in much of the country education had improved and that this was welcome, in the conflict areas of the North the major pre-occupation remained personal security.

This experience suggests:

- Participatory M&E can be scaled up and provide important elements to national level processes;
- CSOs can play a complementary and distinct role in promoting 'good governance', under the right conditions;
- Tracking change at several levels at the same time, and investigating patterns of correlations may reduce uncertainty more than searching for proof of causality;
- The timing and coordination of processes to influence policy and budget decisions are critical;
- Leadership from within government was important and the fact that UPPAP was part of the Ministry where this leadership was strongest is no coincidence.

Attachment 2. The Tsunami⁶⁷

Oxfam Australia's approach in its Tsunami response in Sri Lanka has been to work primarily through and with local partners. In Sri Lanka, as documented in a review conducted before the Tsunami by Sue Blackburn of Monash University, Oxfam Australia has worked with Community Based Organisations (CBOs) in rural eastern Sri Lanka since 1990 assisting these organisations to "grow as strong, accountable, democratic and transparent organisations", this has included a process that goes beyond the rhetoric, and identifies and supports the poorest in those communities, developing procedures for dealing with grievances and conflict management, and publicising the costs of any projects in public places for maximum transparency. Her research which also looked at 'control groups' of women which had not been supported by CBOs, suggested that where this investment in CBOs had been made women were more confident of asserting their rights, and had less feelings of frustration and helplessness.

Mechanisms for Bottom-Up Accountability that were developed post Tsunami have included:

Camp level processes

These were developed by Community Based Organisations who established structures and processes based on an inclusive model and one that deliberately sought to target the most vulnerable. In several cases this meant addressing issues such as child protection, ensuring women's needs were met and that equitable distribution of relief goods was happening both between and across camps. In some camps complaints and suggestion boxes were put into place to allow community members to directly express opinions, concerns and ideas. These were attempts to provide mechanisms of complaint and redress.

District or higher level processes

Whilst process of accountability at local level were important, it is often the case that district level or other levels are equally critical given this is often the level at which coordination and planning occurs between agencies and the first layer of government. One example of this was an initiative called Gender Watch. The initiative enables women to report domestic violence, sexual harassment and discrimination to the group. The group documents violations in the camps and distributes the information to international agencies and the government. Remedial action taken includes: having a government officer suspended for violations; providing protection to five orphaned children; ensuring women have access to oral contraceptives; facilitating access to the police in the case of domestic violence; temporary shelters being given to single women who were originally excluded because they did not possess the right papers, and registering women for the provision of ration cards so that they can have access to relief goods.

A second example was a rapid Temporary Housing survey conducted by Oxfam Australia in Sri Lanka which had the result of not only determining people's aspirations regarding housing, but had the secondary effect of empowering respondents to understand the choices that they rightfully did have, as well as galvanising them into demanding greater voice and choice regarding their future.

The results were telling. Over 1/3 of the people did not know where they were being moved, most of them believed, wrongly, that they did not have any choice in site selection and that they would lose their entitlements if they don't go to the site shown by the government. Respondents did not prefer (by a margin of 6:1) the 'emergency tents' being distributed large scale by government and agencies in order to move them out of the schools.

The survey demonstrated that it was not 'messy' to consult the people even in emergency periods. With a network of community based organisations it is possible to do this rapidly and effectively. Secondly the process itself was empowering – people became aware of the options they actually had, began discussing the pros and cons of different sites identified, eagerly sought out the opinion of their neighbours and kin, and critically considered security implications (there are military and rebel camps dotted in the area), fertility of soil and availability of water during dry season, none of which appeared to be of much concern to others.

National level initiatives and beyond

⁶⁷ See Roche, C, Kasynathan, N. and Gowthaman, P (2005) "Bottom-up Accountability and the Tsunami" Paper Prepared for the International Conference on Engaging Communities, Brisbane

Oxfam Submission to Human Rights Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade Inquiry into Australia's aid program in the Pacific

Finally it is at the national level that many of the major policy decisions and allocations of resources are made by most organisations. It is therefore important that mechanisms of bottom-up accountability don't stop at the local or district level. One attempt to extend these processes to the national level is the proposed establishment of Aid Watch in Sri Lanka.

The particular concerns of this body would be to pay special attention to:

- Aid Coordination, including non-duplication, coverage and inclusion;
- Aid impact and efficiency, including speed of delivery and cost-benefit analysis;
- Accountability, and participation of affected communities in decision-making including mechanisms for their input re mismanagement, waste and corruption;
- Sustainability, including capacity development of local Community Based Organisations (CBOs) to hold government and (I)NGOs accountable to them;
- Non-discrimination, including of ethnic, religious minorities, women and other multiply-marginalised groups;
- Conflict-sensitivity, including equity issues for neighbouring communities repeatedly affected by the conflict but relatively unaffected by tsunami; and,
- Poverty alleviation, asset creation and livelihood support for the poorest of the poor.

The major challenge at the moment is to establish Aid Watch in a way that is:

- Neutral / impartial and avoids conflict of interests, and therefore is not constituted by the very agencies who have a vested interest in the findings of the organization;
- Public, open and transparent in its decision-making processes;
- Representative of the various stakeholders and constituencies in all of its processes, including its establishment formation, operational modalities, and reporting/dissemination procedures.