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JOINT STANDING COMMITTEE

ON

**FOREIGN AFFAIRS, DEFENCE AND TRADE
(Human Rights Subcommittee)**

**Reference: Regional dialogue on human rights
(Human Rights Subcommittee)**

SYDNEY

Wednesday, 4 February 1998

OFFICIAL HANSARD REPORT

CANBERRA

JOINT STANDING COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE

(Human Rights Subcommittee)

Members:

Mr Nugent (Chair)
Mr Hollis (Deputy Chair)

Senator Bourne	Mr Brereton
Senator Chapman	Mr Barry Jones
Senator Harradine	Mr Price
Senator Reynolds	Mr Sinclair
Senator Schacht	
Senator Synon	

The committee is to inquire into and report on:

The effectiveness of Australia's regional dialogue on human rights, with particular reference to:

the current debate on the interpretation of human rights in this region;

the place of human rights (civil and political, economic, social and cultural), including the issue of freedom of speech and expression, in the relations between Australia and our regional neighbours;

the place of the debate on human rights in the debate on regional security and stability;

the extent of ratification of the UN human rights treaties in this region and the impact of this on the promotion and protection of the rights of children (including child labour issues), women, workers, indigenous people and minorities; and

the role of existing institutions, both government and non-government, other linkages and avenues for dialogue, and the means by which these might be improved.

WITNESSES

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JOINT COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE
(Human Rights Subcommittee)

Regional dialogue on human rights

SYDNEY

Wednesday, 4 February 1998

Present

Mr Nugent (Chair)

Senator Harradine

Mr Hollis

Senator Reynolds

Senator Synon

The subcommittee met at 9.35 a.m.

Mr Nugent took the chair.

CHAIR—I declare open this public hearing in Sydney for the regional dialogue inquiry being conducted by the Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade. The subcommittee is inquiring into the effectiveness of Australia's regional dialogue on human rights. This is the first public hearing to be held outside of Canberra during the inquiry and it will continue tomorrow. Later this month we will be holding a public hearing in Melbourne.

The subcommittee has received a variety of submissions during the course of the inquiry—from government departments, non-government organisations, interest groups and individuals. Our witnesses today and tomorrow represent a range of interests and backgrounds so that a sense of variety of representation made to the inquiry should come through during these hearings.

The particular focus of this inquiry results from the interests and concerns raised by the committee in its 1994 report to the parliament, *A review of Australia's efforts to promote and protect human rights*. The inquiry will address the human rights debate that has developed in the region, as well as the institutions and processes which would advance the debate and improve dialogue. We will also focus on the means by which our region can promote and protect human rights within the definitions that have been established and accepted under the various United Nations covenants.

[9.37 a.m.]

FITZPATRICK, Mr Kieren John, Director, Asia-Pacific Forum of National Human Rights Institutions, Human Rights and Equal Opportunity Commission, Level 8, 133 Castlereagh Street, Sydney, New South Wales

SIDOTI, Mr Christopher Dominic, Human Rights Commissioner, Human Rights and Equal Opportunity Commission, Level 8, 133 Castlereagh Street, Sydney, New South Wales

CHAIR—Our first witnesses this morning have a very public role in the promotion of human rights. On behalf of our subcommittee, welcome. The subcommittee prefers that all evidence be given in public but, should you at any stage wish to give any evidence in private, you may ask to do so and the subcommittee will give consideration to your request. Although the subcommittee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as the proceedings of the House itself. I now invite you to make a short opening statement, if you wish, before we proceed to questions.

Mr Sidoti—I would like to make a few opening comments, principally because the submission was so late in being sent and therefore being received by members of the subcommittee. To start with, I should apologise for that fact. I am afraid that we are finding increasing difficulty, as I would assume members of the committee would expect, in getting things done at the moment. As you are aware, we have had a significant budget cut. I would expect that, as much as we see an important part of our role as being the servicing and support of the work of parliamentary committees, to do that will face us with increasing difficulty as the next couple of years go on. So my apologies for the lateness of the submission. I propose just to run very briefly through its principal points before opening myself to your questioning.

The submission basically is structured with two principal sections. In the first, we seek to make some general comments about the human rights dialogue with our region, attempting to derive some basic principles on which that dialogue can be established. The second section then deals with a particular form of dialogue and cooperation on human rights within the Asia-Pacific area, and that is our work with national institutions, particularly through the newly established Asia-Pacific Forum of National Human Rights Institutions.

In the general comments, the submission refers to the centrality of human rights in international relations. We certainly see human rights as playing a very significant part in that. It is a part that is acknowledged comprehensively by the international community in a variety of international forums now going back many years. Although there are some who would still seek to contest that from time to time, I do not think we can any longer say that there is no legitimate debate and discourse among nations on the subject of

human rights. Indeed I would say that, so far as foreign policy is concerned, trade, security and human rights issues all need to rank as the three primary components of foreign affairs, on an equal footing and with inter-reactions amongst the three which require a great deal of subtlety in the work that needs to be undertaken.

It is necessary to appreciate, when we enter into dialogue on human rights, the fact that there are a number of significant philosophical issues that are currently raised during the course of the debate. The submission deals with what I see as the three most significant of those, respectively: the universality of human rights; the indivisibility of human rights; and the relationship between the human rights dialogue of nations and national sovereignty. It seems that these three core questions keep coming up in international forums and in bilateral and multilateral debates about human rights.

During the course of our submission, we give a little history as to the meaning of these concerns and we attempt to indicate that really, at this stage of world history—with the development of the world community and international human rights law to its current stage—these are now matters on which debate should be closed. Certainly, in legal and philosophical terms, the debate is closed. The issue then becomes one not so much of philosophy or principle but simply one of power and pragmatism. These matters are raised now purely for tactical advantage on the part of countries whose human rights performance is being criticised rather than as any continuing issue of international law for international dialogue.

During the course of my comments, I should add as an aside that I refer on a number of occasions to the Chinese government, to relations with the Chinese government and to the Chinese government's white paper on human rights. I do so, as I indicate in a footnote, not because of any particular concern about that relationship above any other, nor even out of any particular wish to single out China for special treatment, but rather in recognition of the fact that the Chinese government has been sensitive enough to these issues to provide in that white paper of 1992 a very full articulation of its particular perspective. It is certainly a view which is broadly representative of that placed before us by many governments, but we should give the Chinese government credit for the fact that it is prepared to articulate its position. On that basis, we can then enter into debate and dialogue on it. So my references repeatedly to China in the submission are, as I say, not to single China out but rather to take advantage of their willingness to express their views so clearly and explicitly.

In putting aside, as I suggest we should, the continuing relevance in legal terms of these issues in the debate, I seek in the submission to address the question of how we should then approach human rights dialogue. I propose seven principles upon which the dialogue should be conducted. Within the submission itself I indicate briefly what I see as the content of those principles. In general terms, firstly, we should approach other nations with intelligence and knowledge about their history, about their experiences in international affairs and—particularly in this part of the world—about the continuing

cultural and political legacy of colonialism that has soured relationships between Western countries and developing countries in the Asia-Pacific region. Knowledge and understanding of that history is necessary if we are to have an effective dialogue.

Secondly, I propose a principle of sensitivity and balance. We cannot talk about human rights with any of the countries in our region if we are simply critical. We must also be aware of the advances and the achievements that have been made. I instance the undoubted human rights achievement of the Chinese government in feeding 22 per cent of the world's population. We cannot honestly criticise China's human rights record in civil and political rights without at the same time being prepared to acknowledge an achievement like that. The same is true of other governments. We do not deal simply in black-and-white terms with the rest of the world: we must be sensitive and balanced in our relationships.

The third principle is the principle of consistency. We need to approach all countries on equal terms and not to be selective in the way in which we apply human rights dialogues and human rights laws to our relationships.

Fourthly, we must keep our word. If we say we are going to do something, we must do it and, if we decide to change our minds, that change must be completely transparent, based upon principle and properly explained to the international community.

Fifthly, we must be honest about ourselves. Unless we are ourselves critical of our performance, our criticism of the performance of others will always be seen as being hypocritical. Australia has a very good track record in international forums for doing this. I have been in international meetings where regularly the Australian government's official representatives are congratulated on their honesty, an honesty that is rare in the international community. It is because of our honesty about ourselves that we are capable of being listened to with credibility when we speak about the human rights deficiencies of other countries. For that reason, I am very concerned about the tendency from time to time of politicians to criticise Australians for supposedly bagging Australia overseas. In fact those people are not just exercising the right of free speech, which is itself a human right, they are also adding immeasurably to Australia's credibility in talking about the human rights deficiencies of other states. For that reason, they should be supported and applauded, rather than criticised.

The sixth principle is the principle of collaboration—the realisation that we are not in this fight on our own, but that there is a vast network of non-government organisations and, indeed, of other sympathetic states with whom we should be working. The development of our strategies and approaches in collaboration with them is an important part of the work of human rights. It is also consistent with the philosophy that says that human rights are universal. Because human rights are universal we can deal with other countries in promoting these universal standards, and collaboration is an important principle.

Finally, I refer to the need to ensure that we develop tactics that are the best designed for the effectiveness of our human rights work. Standing on pure principle is not enough. I do not think we have that luxury anymore. We need to ensure effectiveness in our strategic or tactical approach to the promotion of human rights. That means that we can be consistent on principle while being varied in our tactics—again, so long as we are transparent in the decision making processes that we go through. If, for example, we can support the past practices of sanctions against South Africa and yet say that sanctions will not be adopted against China or Burma, there is no reason why that should not be the case so long as the decision making process is transparent, so long as our principles are consistent and so long as it is quite clear that we are making tactical decisions about what are the best ways to approach the advancement of human rights in each particular case.

Having dealt with the general approach towards human rights dialogue, the submission deals particularly with the work in which our commission is engaged: strengthening, supporting and encouraging the establishment of national human rights institutions, most particularly, in the past 18 months, through the Asia-Pacific Forum of National Human Rights Institutions. Although I have spoken before this subcommittee in the past on this, it may be useful to refresh your memory on a couple of the key developments over the last six or seven years in this work with national human rights institutions.

Our commission, from its earliest days, was concerned to encourage these kinds of independent human rights bodies. Without doubt, the primary responsibility for the observance of human rights lies upon governments themselves. The international community certainly has a major role. But it is the governments themselves that undertake the obligation to respect the rights of their citizens and so it is governments themselves, their parliaments and other parts of the governmental structure that must devise ways in which that protection can be ensured.

National human rights institutions that are independent and effective in their operations are one means to contribute towards this domestic protection of human rights. Certainly they are not the only solution, nor, in any country, can they be the sole approach to human rights protection. Rather, they are one mechanism amongst many that can ensure that governments fulfil their obligations to their citizens in relation to the respect for human rights.

From the early 1990s our commission was involved with a number of emerging human rights commissions and with governments wishing to establish human rights commissions, encouraging the establishment and assisting to ensure the effectiveness of the new bodies that were being set up. We were instrumental as well in developing international principles to enable the identification of those commissions that were genuine—that is, independent and effective—and those that were simply fronts for the operations of their repressive states. Those principles, Principles Relating to the Status of National Human Rights Institutions—called, more shortly, the Paris principles—now

provide the standard by which we can measure whether any particular institution is indeed a genuine, effective body and those which are mere apologists.

Since 1993, the commissions, in increasing numbers, have met periodically at the global level through an international workshop of national human rights institutions. That workshop is only convened once every two or three years for a couple of days, the most recent being in Mexico in November. The locations have moved around the various regions of the world, and the Latin American region was the most recent to host the meeting. Between these two- to three-yearly sessions of the full community of human rights institutions there is an international coordinating committee that meets annually—Australia is represented on that—and that seeks to develop our relationship with the United Nations institutions and to promote cooperation between our bodies. I must say, though, that the capacity for cooperation in an effective way at a global level is quite limited. We see a great deal of benefit in the international coordinating committee and its work; nonetheless, it is not unlimited. There are restrictions because of the great diversity of institutions and the different national contexts in which we are working.

Our priority has always been the Asia-Pacific region where, in our view, we are capable of achieving the most significant results and where we have a much greater and more direct responsibility. For that reason, in July 1996 we convened the first meeting of institutions in the Asia-Pacific region. There were then five, and four attended the meeting. They agreed to establishing a standing organisation, the Asia-Pacific Forum of National Human Rights Institutions. The secretariat of that forum is located at our commission here in Sydney and Kieren Fitzpatrick is the director of the secretariat. The fifth regional commission, that of the Philippines, subsequently joined the forum. During 1997 a sixth commission, in Sri Lanka, was established and it too has joined the forum.

We are working currently with those commissions and with six other nations who are considering the establishment of human rights commissions that meet the Paris principles. Those other six nations are Mongolia, Nepal, Bangladesh, Thailand, Papua New Guinea and Fiji. Our hope is that each year, as the forum holds its annual session, we will be able to welcome into our membership a couple of new commissions. Once we get 12 to 15 bodies we will really become quite a viable operation in trying to provide this kind of mutual support for each other.

The work that we are doing is very much collaborative. We have no jurisdiction under our laws or constitutions to become involved in human rights incidents in each others' countries. Rather, we try to support each other in undertaking our mandates to promote and protect human rights within our own countries. The emphasis is very much on the training of staff and the exchange of experiences so that effectiveness can be promoted and enhanced. We are also endeavouring to ensure that the commissions are properly established and that their laws are examined and are made as powerful and effective as possible when governments decide to establish commissions.

The secretariat is being supported principally by the Australian government and, to a lesser extent, by the New Zealand government. But we are finding already that the capacity of the secretariat to attract funds for its own operation and for the projects of the forum is expanding, with increasing numbers of governments in North America and western Europe and non-government and private organisations and foundations expressing a wish to become involved in the forum's work and to fund its projects. I must say, though, that these initiatives would not have been commenced and would not be sustained without the unequivocal political and financial support of the Australian government.

The Australian Minister for Foreign Affairs has been responsive to our needs every time that I have spoken to him. He has referred regularly in international forums, including the United Nations General Assembly, to the establishment of our Asia-Pacific forum and to his support for it. I can say without qualification that the support of the minister and of the government has been strong and unequivocal and is expressed in dollars, not just in political or philosophical terms. We are extremely appreciative of that.

The minister gave a commitment to fund the forum, at least for its core operations, to the tune of \$75,000 for the first three-year period. He topped up that contribution during the second year and we hope that he will do so again for the third year. The New Zealand government this year has contributed, in addition, \$30,000 to the forum's core secretariat operation, so we are now able to provide around 2.5 effective full-time staff positions to run the operation. Without that it simply would not be viable; without dedicated staff able to service a development like the forum I think we could simply forget about it occurring.

In addition to that, the Australian government and the New Zealand government are already funding forum projects. As I have indicated, other governments, government aid agencies and private foundations have expressed interest in funding projects in the future. So this is very much a success story in looking at regional cooperation for human rights that is having an impact already in the effectiveness of national institutions and the capacity of governments to ensure the protection of the rights of their own citizens. And it is something whose development will continue.

I have mentioned our hope that we will continue to welcome new members into the forum as commissions are established consistent with the Paris principles. We will also be working with those governments that are establishing bodies that are not consistent with the Paris principles. We are dealing, for example, in an initial way, with a human rights institution that has been established in Iran. It does not meet the Paris principles, it does not accept the universality of human rights and so, in our view, it is not entitled to full membership of our forum and we have denied it that, even though it has sought it. But we are prepared to work even with the government and the institution established in Iran to the extent that we can to promote the adoption of the Paris principles as the model upon which these institutions should work. In the same way, those governments, such as the six I have mentioned, that are interested in establishing institutions will certainly

receive our support in doing so.

The forum will continue to develop in those ways. We are also seeking to develop its own role and its own activity in new ways. At the second meeting of the forum, in New Delhi in September, we from Australia took along a proposal to establish parallel to the forum, an advisory council of eminent jurists who can assist us in the interpretation within our region of international human rights law.

In Europe, and in the Americas, and to a lesser extent in Africa, there are already regional human rights arrangements between the governments. In two of those three regions there are courts that can actually interpret human rights laws and their application. We have nothing like that in this region. We do not yet have a regional jurisprudence for human rights, and we need one. We need to seek to apply the universal standards to the particularities of the region.

We proposed, and the forum has accepted, the establishment of a jurists' advisory council to the forum to which forum members can refer matters of human rights interpretation for an advisory opinion. The proposal is that this council will consist of one eminent jurist appointed by the commission of each country from amongst the eminent jurists of that country. We will then start to get very senior and eminent people able to reflect together on the application of these universal norms. That is the next stage in our forum development. There will be, as time goes on, other initiatives that we see as desirable to promote regional cooperation on human rights work.

The submission itself does not propose matters that this subcommittee may wish to consider during the course of its report, but there are four things that I would like to draw to your attention in my closing remarks. These are issues that I hope the subcommittee will take up and include as being principal elements within its report to the parliament. The first is that the subcommittee should endorse the centrality of human rights in Australian foreign policy. As I have indicated, I certainly see it as one of the three legs of good foreign policy, along with trade and security issues.

I think that needs to be constantly reaffirmed, not that I have any worries that the minister does not see it that way, but certainly you see in public debate, particularly academic debate and sometimes in other more pragmatic circles, arguments that trade issues should take precedence over human rights or that security should take precedence over human rights. In fact, as I say in the submission, we are dealing with three legs of a tripod, without which the tripod of foreign policy would be seriously deficient and unbalanced.

The second is that I would suggest to the subcommittee that it seeks to articulate a basis upon which human rights should be incorporated into foreign policy and foreign affairs work. It need not be, I am humble enough to say, on the basis of the principles that I propose in the submission but I would hope that the principles that we do suggest will

assist the committee in its articulation of the principled basis for this incorporation of human rights in foreign affairs.

The third is that I would request that the subcommittee reaffirm its past support for the work that we have done as a commission in promoting the establishment of national institutions and, indeed, move beyond that now and offer its continued support for the establishment of the Asia Pacific forum and its continued viability. To my mind the strong bipartisan or tripartisan support in Australia for this kind of work has arisen because this committee, a multiparty committee, has been so strong in supporting our activities, and I would be grateful if that support could be continued.

Finally, a matter on which I have no comments to offer you but merely a suggestion is that it would be useful if the committee could also consider the development of models for interparliamentary cooperation for human rights. I know that this has been a particular interest of the chairman of the main committee, the Right Honourable Ian Sinclair, and that it is a matter that has arisen in interparliamentary meetings that he has been involved in.

At this stage, within this region, there are few mechanisms, few forums, in which parliamentarians themselves can debate and discuss and cooperate on advancing the work of human rights. Certainly, comments made to me in the past by Mr Sinclair are comments that are encouraging about his desire, and the desire of Australian parliamentarians, to find new mechanisms for this. I would certainly recommend to the committee that this be a matter that be considered in the context of the parliamentary committee's work.

CHAIR—Thank you. Perhaps I will ask the first question and then I will pass to some of my colleagues. But before I ask the question let me say that in this parliament the committee system has also undergone its share of contributing to economic belt tightening and so we have some understanding of the pressures that that resource problem brings to all of us. I think I can also say without pre-empting the committee's findings that there is little doubt that this committee will continue to support your work and the work of that Asia-Pacific forum in as strong a way as it can on an ongoing basis.

Reading your submission, one of the things that came through to me is that, whilst a lot of good constructive work is going on in a number of countries, I worry on two fronts in terms of independent commissions. One is on whether, even where there is an independent commission appropriately set up and trying to do the right thing, governments are necessarily doing things that are in step with what their independent commissions are doing. In other words, whether the governments may be saying, 'Yes, we have set up a commission,' but their practice may be to do other things.

Indonesia might be a very interesting example of that, given that Indonesia is part of the forum. I think the next forum meeting is due to take place in Indonesia later this

year, but I am not sure that the government's current behaviour is necessarily supportive of human rights in certain parts of Indonesia. I would be interested in your comment on that.

Also, it seems to me that there are three countries—two are quite well developed in an economic sense but are not making a lot of progress in human rights terms in the region. You talk about Pakistan to a certain extent. It seems to me, having been there, that there are some unique challenges in that country. The other two are Malaysia and Singapore. In Malaysia, we are aware that Mr Mahathir has come up with his own definition in the human rights area. Singapore is very highly developed economically. Nevertheless, a lot of people do raise questions there. I do not recall that there has been much activity between the forum and Singapore. I would have thought that, as a highly developed country, it should have been almost a natural to be part of that.

Mr Sidoti—Thank you, Mr Nugent. The first question of the activities of governments and their consistency with human rights is at the core of the work of human rights commissions. Of the six commissions that exist in the region, I would say that in not one single case is its government acting always consistently with human rights. I include our own government in that, and I both say that now and have said it in the past. I suppose I am not utopian. I do not look towards the perfect society on earth. The role of human rights commissions, therefore, is to constantly contribute towards a more perfect society or a less flawed society than we actually have. In some countries there is more success at that than in others.

The importance of human rights commissions—and I say this also in relation to all six countries—is that they do express a sense of idealism and aspiration on behalf of their governments. Even governments that have deficient performances in human rights—sometimes of very serious natures—by establishing human rights commissions are still acknowledging that there is a need for something better, that their performances are flawed and that there should be domestic institutions that are capable of commenting upon those deficiencies.

The important thing for us in working with commissions is their consistency with the Paris principles—their capacity to be truly honest and independent and critical of their governments. There is no point in having a human rights commission if it is not going to criticise its own government. You might as well forget about it. We have human rights commissions precisely to be critical of the performance of domestic institutions. That is why all of us are always in trouble with our governments of any particular political flavour. If we are not, there are problems about the effectiveness of the work that we are going. It is a fact of life.

So, in each case, including the one you instanced in Indonesia, and including in Sri Lanka, India and in New Zealand, we each have our own particular tensions at times with our governments. We each have the job of pointing out the deficiencies of governmental

performance in human rights fields. Our governments perform better or worse from time to time and in comparison to each other, but still the commissions are able to maintain an effective operation. In no case will or can they be the sole means by which human rights are protected and promoted. My argument is more that they are an important part of the armoury of human rights protection. The more effective the commission is, the more authorised it is to go about its business independently. The more adequately resourced it is—a particular problem for us at the moment—then the more effective it can be, and the prouder the government can be that it is honouring its commitments to its own citizens.

On the second question, the issue of human rights and economic development is one that is subject to a good deal of debate in the region. Some of the examples you have given, particularly Singapore, prove the lie in the argument that says that if we get economic development sorted out then human rights will automatically flow. They do not. Again, it is an interdependent relationship. It is another part, if you like, of the need to incorporate human rights work explicitly as a priority in governmental activity and in developmental activity. Economic development alone is unbalanced development; it is a misallocation of government attention if that is the only thing that governments attend to.

The government of Singapore is one of the more noted advocates of a view that says that human rights should not be part of international relations and debate. As I have indicated, that view has no legitimacy whatsoever in terms of international human rights law, or even in terms of the United Nations forums and the United Nations commitments that Singapore has made. The view of Dr Mahathir is somewhat similar to that, although he is probably less hardline, ironically, than the government of Singapore.

Pakistan has other difficulties as well. Pakistan has a very active non-government organisation called a human rights commission which constantly struggles to survive on the edge of political tolerance. Largely because of the dynamism of its leader, Asma Jahangir, it manages still to carve out room for itself in a very difficult political environment.

Pakistan did have, 18 months ago, a tribunal called the Disadvantaged Persons Tribunal. In terms of its mandate it was virtually a human rights commission and we were seeking to establish relations with it. It was appointed by presidential decree and its members held office subject to the pleasure of the president. So it did not have the necessary degree of independence that we would look for in accordance with the Paris principles.

The then government of Pakistan was proposing to change its constitutional arrangement to establish it by law and give it independence. A law was introduced into the Pakistani parliament but it was not passed before the last election. We have been unable to establish direct contact with that tribunal since then so we have no idea what is happening either to the proposed law or even to the operation of the body.

The examples that you give are very good examples of the need to ensure political development and human rights development and not simply economic development because we cannot say that one necessarily follows the other.

Mr HOLLIS—To follow on from Mr Nugent's question, it always seems to me when we talk about human rights and human rights commissions that they are a figment of the imagination because they are fine only while governments are prepared to tolerate them. Governments usually appoint them and usually fund them. But immediately there is a crisis, political or economic, the first thing to suffer is human rights. That is going to become increasingly interesting in Asia given the so-called economic crisis. What will happen to human rights there? Will there be a flourishing of human rights or will human rights, struggling as they are in many of these countries, be yet another casualty of the so-called Asian economic crisis?

Mr Sidoti—Certainly, that is a well-founded fear. However, I am encouraged that institutions like the World Bank are now talking about good governance and not just economic development. There have been a number of statements by the president of the World Bank, James Wolfensohn, to the effect that, unless the struggling Asian economies also address issues of political development, and particularly questions of social welfare and the basic well-being of their citizens, no addressing of the economic crisis is going to solve the problem.

It is very important that those comments be made at this time because the tendency of governments will be to seek to tighten up on any political dissent. They will want to keep the lid on domestic political situations and thereby enhance and entrench their own power. They will do that rather than look to other causes of economic failure such as matters of overborrowing and bad trade performances and so forth.

Mr HOLLIS—In your opening statement you said that Australia should not be selective in our pursuit of human rights. Do you think we are being selective?

Mr Sidoti—There is a temptation to be stronger about human rights violations the further they are away from our shores. That is an understandable inclination, but it is not necessarily a desirable or even a commendable one. We need to be very consistent in our application of principle.

As I said, there is the capacity for variations in tactics. I am quite pragmatic in saying that the actual things that we do to promote human rights should be founded upon effectiveness. That requires a great deal of sophisticated analysis, and the Department of Foreign Affairs and Trade is well equipped to undertake that kind of task. But consistency of principle has to be one of the underlying bases upon which we make different tactical decisions.

Mr HOLLIS—Having said that, what sort of message do you think the

government sent when, during negotiations on the trade agreement with Europe last year, they would not adhere to the human rights principle—more or less saying that our human rights are fine? Do you think that sent the wrong message or do you think it was understood?

Mr Sidoti—Personally, I was disturbed when that occurred. I can see the government's wish to indicate that it did not feel that there was a need to make such a commitment on behalf of Australia—nor should there be a need to make that kind of commitment in the sense that our performance should be beyond reproach; regrettably, it is not. I was disappointed by the message that it sent to other countries. As I indicated earlier, I do not see trade as necessarily taking a priority over human rights in all circumstances. We need to have balance in the way in which we relate. I fear that, in declining to sign the European agreement with that clause in it, we were giving the message that we would make human rights subservient as a matter of principle to economic and trade considerations.

Senator REYNOLDS—I have a number of questions, Mr Sidoti. I am a bit concerned about your three-legged stool analogy. If we look at the position of human rights as detailed in the foreign policy statement, 'In the national interest', of last September, I am concerned that that stool is very lopsided and wobbly. I think that in 1998 we need to try to get that leg considerably lengthened and strengthened so that the stool is better balanced.

That brings me to the major thrust of my question. There is a lot that should be happening in 1998. How do you see Australia being in a position in this vital year to show leadership in that debate in regional dialogue terms given that we have the 50th anniversary, the review, the alternative wording coming from former leaders and Malaysia talking about perhaps changing some of the wording?

Mr Sidoti—In some senses I am straying out of my field of expertise to give too detailed an answer, so perhaps I should be a little more general at times. Certainly, Australia is a key member of the Asia-Pacific region. Because we have a record that is better than most—perhaps even better than any in the region on human rights issues—we are best placed to play a leadership role in considering these kinds of questions. Certainly, as a commission, we are interested in domestic activities that will ensure a proper focus on human rights issues on the occasion of the 50th anniversary. It is also now some years into the international decade of human rights education, yet on both scores no resources have been allocated by the government for any activities of an observance kind.

We are in fact convening a meeting tomorrow of representatives of various federal authorities and departments to discuss what can be done for the 50th anniversary, but the message we are getting in each case is, 'So long as it does not cost anything, we are interested in talking about it.' I do not think we can have a proper observance of the 50th anniversary on a cost-free basis, yet probably there has been no more important time in

recent history to provide the focus that the 50th anniversary will within the region—precisely because of comments by Dr Mahathir that you have referred to.

I am encouraged that our forum itself provides one means by which some of those comments can be tackled at a regional level and not just by Australia as a single individual power. I was extremely encouraged at the meeting of our forum in New Delhi in September when, in our opening session—a discussion of human rights developments—the representative of the Indonesian commission said that human rights needed to be affirmed in their universality and that we had to avoid any attempt to re-open the universal declaration. It was not us as Australian commission representatives or certainly not the Australian government saying that but the Indonesian representative, and he received strong support from India, Sri Lanka and the Philippines.

The forum is, I think, capable of being able to express a regional view on these issues that is different from the approach taken by the spokespersons for various governments in the region. Australia's support for that is therefore very important. We can play the leadership role by doing what the government has been doing in supporting the development of the forum as an alternative regional multilateral voice on these kinds of issues.

I would certainly like to see leadership domestically to ensure that the observance is appropriate to provide the kind of message to the region that says that the universal declaration is there. It is one of the most important documents to come out of the UN system and, I think, one of the most inspirational and aspirational documents produced this century, and it should not be ignored.

Within the context of comments made by some like Dr Mahathir, I am concerned about proposals to develop parallel statements of responsibility. The universal declaration itself, within itself, says that governments and citizens have an obligation or a responsibility to ensure the respect for the rights of others—the human rights that are contained in the declaration. It is there already. In some ways talking explicitly about responsibilities in that kind of a framework gives comfort to those who would argue that human responsibilities, particularly the role of an individual within the state or the role of the individual to respect the state, should take precedence over the state's responsibility towards individuals and communities.

To me, human rights law itself very firmly places the individual within a community. It is not about the rights of autonomous individuals. I think it is there already so I am concerned if we do start taking off on those kinds of tangents, given the sensitivity of the human rights debate globally at this stage.

CHAIR—You would not support Mr Fraser then?

Mr Sidoti—I certainly think that the promotion of that particular draft declaration

at this stage would be undesirable. I am not necessarily saying that it will always be undesirable but, coming as it is in the context of comments made by Dr Mahathir and the position of the Singaporean government, a long-standing position, I am a bit fearful about how it would be used politically as—which is not what is intended—a means of attacking human rights.

Mr Fitzpatrick—I just have a practical aspect to add. Taking it away from high principle into a practical project at the moment in the forum you will note in one of the attachments to my submission the outcomes of our New Delhi workshop. In that workshop the forum members have asked the secretariat to develop a number of projects that give prominence to the universal declaration in the 50th anniversary. That is on page 27.

One of the ones that is of interest is a video project which would stress the universal nature of human rights developed amongst forum members. It would be of broadcast quality which would subsequently be shown within the broadcast mediums of those respective countries. It is just an important message that India, Indonesia and the Philippines can send in that instance to their regional colleagues through their own regional networks to say that they are prepared to engage in such a project.

Senator REYNOLDS—I was going to ask the question about how you felt we should deal with that draft that Malcolm Fraser is circulating. I am sure it is circulated with good intent but, in the current climate, both domestically and internationally, I think it has risks attached to it.

I saw a press release—I am sure it was in the last three months—that said that the name of the Human Rights and Equal Opportunity Commission had been changed to the Human Rights and Responsibilities Commission. It was released in the name of the Attorney-General.

Mr Sidoti—The Attorney-General announced in September a decision of cabinet relating to a restructure of this commission and part of that proposal will be to change its name to the Human Rights and Responsibilities Commission. The commission is a statutory authority so that will only occur if parliament agrees in the context of an amending bill.

Senator REYNOLDS—So you are still equal opportunity?

Mr Sidoti—That is right.

Senator REYNOLDS—We can celebrate!

Mr Sidoti—And we will be until and unless parliament decides otherwise.

Senator REYNOLDS—In terms of this focus on practicality and responsibilities,

and I noted that particularly in statements made in the new foreign policy document, do you consider that there is a role for this committee in turning the focus back to governments? I agree with your comments in that the more I look at human rights, the more I wonder what I was doing when I was in government. So this is not a partisan comment. You highlighted the issues we should be focussing on. There is an issue for this committee to remind governments that it is all very well to talk about being practical and getting everybody else to be responsible but how about looking inward at government's practical responses—funding, staffing, and indeed their responsibilities to maintain their international obligations, particularly their reporting obligations.

When I was recently at the UN, I was ashamed to find that our reporting obligations had not been met by previous governments, and we were in for many years—Peter would say, 'Too long.' This is not a political comment: this is a very practical comment. How do we get governments of whatever political persuasion to put their money where their mouth is? We are very good at going into international conferences and making grand pronouncements about how good our record is and, of course, comparatively, it is. But it is a bit galling to find that, despite these grand pronouncements, when you look at the nitty gritty of what we have done in the last 10 to 15 years our rhetoric has not been matched by practical action of government. This is not looking at the commission; this is looking at government. Do you think that that should be included as one of your issues?

Mr Sidoti—You will not be surprised to have me agree fully with all of your statements. It is essential. Meeting our reporting obligations is difficult. I think both the most recent former government and the present government found the same difficulty. The UN system in reports under human rights treaties is complex and there are attempts to simplify it. But, again, if Australia cannot meet those kinds of reporting obligations, how do we hold up to criticism smaller, poorer countries who say that they do not want to be part of the international treaty system because they cannot meet the reporting obligations.

This is a particular issue in the Pacific where some of the small Pacific Island states are not signing key human rights treaties because they say that they have not got the resources to meet the reporting requirements and that they do not want to sign their treaty and then not comply. Our record, I have to say though, is worse than almost all of the comparable democratic industrialised states. I think we are now two or three reports behind on the civil and political rights covenant, for example.

Senator REYNOLDS—I did a comparison of women's rights and reporting to CEDAW in 1997 of 18 countries. Not only did Australia not measure up with countries such as Italy, Canada and Sweden but it did not measure up with Bangladesh in terms of commitment. Again, I am looking at 1997, but I wonder whether in other years, I could have made similar comment.

Mr Sidoti—Certainly in so far as reporting under the covenant on civil and

political rights—one of the two foundational documents—our reporting status at the moment is comparable with a number of countries that are amongst the poorest in the world and that have amongst the most repressive regimes in the world.

We can say that one of the reasons that we are slow is that we try to do it honestly and that other countries can do it very easily if they want to be dishonest but I think that would be a bit of a glib response. If anything, I think the reports that we prepare are not sufficiently informative and critical anyway. That is, apart from anything else, because we are a federal system.

The Commonwealth asks for contributions from the states to Australia's reports. The Commonwealth bends to accept, very uncritically, whatever the states say about their performance. It includes that in its report and off it goes to Geneva. There are many criticisms, I think, that can be made of the adequacy of our reports as they are and we cannot quite say that we are slow because we are trying to do it properly.

Senator SYNON—Mr Sidoti, thank you for your very thorough introduction. I had not had a chance to read your entire submissions and I found your explanation very helpful. I concur completely with your view of the centrality of human rights in foreign affairs policy and, indeed, in all of our policy as a country. If anything, I believe that human rights should transcend political and economic considerations.

With that background, what are your views on the current economic situation in Asia? What opportunities do you think that downturn may present for groups within countries of concern, such as Indonesia, to advance the issues of human rights within their own countries? There have been some media reports from East Timor and Malaysia that seem to almost welcome the economic downturn as a vindication of their view that economic prosperity and the trickle down effect is not the only thing that a society should aspire to. Do you think it will present any opportunities, not only for the commissions and groups in those countries but also for us as a nation to be taking a more proactive stance?

Mr Sidoti—I think it presents grave risks, which I have referred to. I think there are also the opportunities that you suggest. If governments in the region are prepared to look honestly at what needs to be done to address the economic issues and ensure that they do not recur, then they can only do that within the context of appropriate political development, which includes human rights observance. There is a pressure for change now evident in many countries that was not evident even 12 months ago. There is a possibility of more rapid human rights development than may have been considered possible even 12 months ago.

But there is also the great risk—I suppose that is the nature of critical periods in change processes—that there comes a choice of roads. The governments could become more oppressive but I think the pressures are building. The possible role for us to play is to lend our support to those who argue that economic development needs to go hand-in-

hand with the broader development of these societies. We could say that it is not just a matter, from our point of view, of ensuring the economies come back on track, whether for the advantage of those countries or for our own trade and economic performance itself, but rather that we want to have a different kind of relationship and this is an opportunity to start developing that.

Senator SYNON—Where do you think the opportunities are most favourable? You are talking about the fact that in the last 12 months there has been a rapid change in the consciousness of some countries on movements.

Mr Sidoti—I think there has been that and, as I indicated earlier, even the stance taken by the World Bank these days is much more encouraging than what it was taking in the past. I am afraid I do not have the expertise to go through country by country to get individual assessments so I will avoid doing that.

Senator SYNON—I guess I was trying to draw some parallels as to whether it may be in the countries where there have been members of the Asia forum developed. I am trying to get a sense in my own mind as to whether the development of those institutions has been one of the factors in the change in consciousness of the country.

Mr Sidoti—I do not want to claim too much credit for them but I think in the case of the Indonesian commission, and I will single out one country here, the quite outspoken comments of the Indonesian commission have certainly contributed to a greater sense of pluralism in political debate in Indonesia over the last year or two. It started off by undertaking investigations of individual human rights violations. It started to get runs on the board very early in the piece by making recommendations about the prosecutions, for example, of military personnel. They were prosecuted and some of them were convicted. I think that started people to sit up and take notice of that commission, and when it conducted its investigations in 1996 into the riots in Jakarta, first to the events within the Democratic Party and the overthrow of Megawati Sukarnoputri and then the riots in Jakarta following the take-over of the headquarters of the PDI. Again, I think it started to intervene much more directly in a broader human rights way about some of the structural associations and the institutional arrangements within the society.

I think in that case, and in others, there is an increase in pluralism reflected in the outspoken operations of human rights commissions that can contribute in that way. But, like everything else, I do not see these commissions as being the be all and the end all of anything; they are contributors within a range of social developments within their countries.

Senator SYNON—Presumably they are formed not only as a response by government, in some cases, but in recognition of movement on the ground?

Mr Sidoti—I think so, yes.

Senator SYNON—In all instances, are these institutions wholly dependent on their own governments for funding?

Mr Sidoti—They are primarily dependent upon their own governments for funding, although, they are also able to receive international support for development activities. This is one of the things that we are doing with the assistance of AusAID and the New Zealand government. We are developing strengthening projects with them, staff training, infrastructure development programs and simple things such as the provision of complaint databases so that they can track the investigation of complaints. In these ways, governments outside their own government are able to assist their development but it is done very much on a cooperative basis. Certainly, it is not seen as detracting from the primary responsibility of governments themselves to look after their own commissions.

Senator SYNON—Lastly, at the end of your presentation about the primary issues for consideration, you talked firstly about the centrality of human rights in foreign affairs policy debate and then about articulating the basis for which human rights would be seen as an equal partner. Do you have any suggestions for mechanisms by which we, as a government and a country, might go about doing that?

Mr Sidoti—The comment related mostly to us doing it for ourselves. I offer in the submission some suggestions from our experience. It may be of assistance to the committee in doing that work. My concern is that it be quite a clear statement of principle on our part as to the basis for our operations. How it can be done beyond that, I have not addressed. I suppose we can be much more explicit about what we are doing and why that too can have a role and influence in the actions of others.

Senator SYNON—Are you optimistic that that is possible or practical?

Mr Sidoti—Absolutely. It is very easy when talking about human rights, either domestically or internationally, to become bogged down in pessimism. Without being utopian, as I have said before, I take a positive view about what is possible. I see improvements in the human rights situation in this country over the last 20 to 30 years. It is very sobering to stand back from time to time and reflect upon how things have changed. One obvious example is that 30 years ago, I think in 1966-1967, a woman had to resign from the Australian Public Service upon marrying. That is just one example; we have come a hell of a long way since then. I think we can point to similar changes within our own region. So the evidence is there from my point of view to be very positive about human rights developments but it does require a commitment. It requires determination. It requires a willingness at times to take risks and a confidence not to retreat to simply dealing with economic issues or complacency in relationships with other countries but rather the firm statement of principle and a commitment to its implementation.

Senator SYNON—Thank you.

Senator HARRADINE—Mr Sidoti, as I understand it, fewer than a quarter of the countries in our region have ratified all of the major international human rights instruments. Interestingly enough, most of them seem to have ratified the rights of the child. Can you give to the committee your view as to why that has been the case?

Mr Sidoti—Certainly you are correct, Senator: the ratification of the major instruments is worse in this region than in any other. I think there are a number of reasons for that. One reason, for a significant number of the smaller states, are the reporting requirements that I mentioned. That is an issue that is raised quite regularly by the smaller Pacific island states, but I do not think that is the principle issue with countries like China or Indonesia. In cases like those, and some others, it is a matter of the governments not being prepared to accept the obligations of the international treaties, not being willing to sign up and implement them. It becomes tied closely then with some of the Asian values debate that I sought to address earlier in my comments, where governments for their own domestic political purposes seek to distinguish the culture and traditions of this part of the world from the standards established in international human rights instruments. So I think it really is a governmental repudiation of those universal standards, and failure to sign up for that reason.

On the part of China, we are slowly starting to see some movement. They have been saying for the better part of 15 years now that they were moving towards ratification of the two international covenants. They have now signed the Covenant on Economic, Social and Cultural Rights and I anticipate—they indicate—that ratification will follow very quickly. They say they are in the last stages of considering accession to the Covenant on Civil and Political Rights. Clearly, there is one thing about acceding to an international instrument and another thing about your performance, so I will not comment on that. But I think we are seeing some slow movement.

The worry that I have, though, arises when we start talking about regional arrangements or a regional human rights treaty for the Asia-Pacific area. This has been a subject on the United Nations agenda for a long time. As I mentioned earlier, there are regional treaties for the Americas, for Europe and for Africa. There is none for the Asia-Pacific region, and the UN has been encouraging it. In the general view of things we should have one. But, unless we have strong adherence to the existing universal treaties by states in this region, my fear is that any regional treaty would be a lowest common denominator treaty that would in fact have the effect of undermining international global standards rather than providing a regional means for their implementation. So one of the greatest priorities we should have in our human rights diplomacy is the continual encouragement of regional states to sign up to the global treaties as quickly as possible.

Senator HARRADINE—What is the major push for regional human rights treaties?

Mr Sidoti—It seems to be the United Nations as an institution, that there is a gap here and therefore the UN says the gap should be filled. It does get endorsement from the UN Commission on Human Rights and from the General Assembly that we should have regional arrangements in this area. As a statement of general principle, I have no difficulty with it, but not until the global standards have been accepted.

Senator HARRADINE—Do you think there is an element in our region that sees that global human rights instruments are now exercised in western countries with an element of modern relativism and that would see that as contrary to their cultures?

Mr Sidoti—I think there is genuinely an element of that. To go back to a comment I made earlier, I do not see international human rights law as providing for autonomous, isolated individuals; I see individuals as located firmly within communities. Yet much of the western discussion of human rights is in terms of individual autonomy alone. So the element you talk about is an element that is there. But it is a matter of debate about interpretation, in my view, rather than a repudiation of the instruments.

There is much legitimate debate that can be had about interpretation and application, just as there is about the best means to provide domestic protections for human rights. They are the things upon which we should be debating for our mutual encouragement, education and advancement. But the treaties themselves—and I say this as someone who has worked with them now for the better part of 15 or 20 years—continue to have their relevance, continue to provide the framework of the basis upon which these other debates can occur.

Senator HARRADINE—Yes. Going to the question of the right, under the Universal Declaration on Human Rights, to marry, form and found a family and so on, I want to come to the issue of land reform. Is this seen at all in our region as crucial to the exercise of those rights? Is it expressed in that way?

Mr Sidoti—It is certainly seen as a crucial human rights issue by large numbers of non-government organisations. Interestingly, it is also seen as being one of the central issues, as a human rights issue, by the Indonesian Human Rights Commission. They have indicated that a large part of the work that they do in accepting and resolving individual complaints tends to relate to land disputes and the need to address land ownership and land usage issues.

Mr Fitzpatrick—The number of complaints they get about land management issues forms the second greatest component of complaints that the commission actually has to try to resolve. Generally it is about people claiming title to land where that title does not really have a clear legal basis, so there may be traditional ownership vested against developer interest, and the commission plays a mediating role in trying to resolve those types of disputes.

ACTING CHAIR—Where have we heard that before!

Mr Fitzpatrick—Indeed; there are many relativities across the region. In addition, I think it was the central issue of the complaint load for the Philippines commission until there was a constitutional court decision which suggested that the commission did not have a jurisdiction in that area, which was an interesting decision about economic and social rights versus civil and political rights. And, again, the anticipated Papua New Guinea human rights commission is looking at it as a central component of its projected work, the dispute there being about timber resources in particular and degradation of the environment versus sustainable agriculture.

Senator HARRADINE—I am conscious of the time so I will not ask further questions on that particular subject. Would you see the outcome of the one child per family, the family planning policy of the Chinese government, the PRC, as involving severe violations of human rights? Do you know of anyone in this country that has raised this matter with the PRC? Has the government raised the matter with the PRC? Isn't it a fact that not only is it a violation of human rights, it is the females who get it in the neck most? As I understand it, the latest figures are that there are something like 50 million more males in China than females under a certain age.

Mr Sidoti—I certainly cannot speak for the Australian government, nor—

Senator HARRADINE—I am asking you, practically, whether this matter is raised in the forums that you go to or that the Australian government goes to?

Mr Sidoti—It is certainly not raised in the Asia-Pacific forum, because China does not have a national institution and so we are not discussing it.

Senator HARRADINE—What about Indonesia and the recent riots, where it is alleged that the government of Indonesia sent troops to break up the riot of persons in some villages because a woman died as a result of being forced by family planning officials to have an IUD inserted? Was that not brought to your attention?

Mr Sidoti—It was not brought to our attention, but I need to distinguish again, Senator, if I can, and then comment at two different levels. Through the forum we do not become involved in each other's domestic human rights issues. The focus is very much on practical collaboration to try and ensure that the work that is being done by the commissions is the best possible work. We do not interfere with each other's jurisdictions, because we have no authority to do so. Our commission has not got a mandate under the law to take up the cases, either individual or general, of human rights violations elsewhere.

I can perhaps answer at a personal level and say that certainly, when I was a member of the 1991 and 1992 human rights delegations that went to China, these issues

were raised and that I—and others, without doubt—then very clearly indicated to the Chinese dialogue partners that, firstly, the issues of forced abortion and forced sterilisation were very serious violations of human rights. We raised and sought information and got statistics on this very question that you have raised on the disproportionate numbers of male babies as against female babies, and we sought to explore with the Chinese speakers the question of why that might be. We looked at the issue of sex determination before birth and we received some assurances from the Chinese government that this was outlawed.

The policy of the one-child program in China is said to explicitly prohibit forced sterilisation, forced abortion and so forth but, as the Chinese government itself acknowledges, these practices have occurred. They are described by the Chinese government as being aberrations and excesses, and as not authorised and prohibited and the rest, but I do not think that there is any serious disagreement that they have occurred in the past and that they continue to occur, at least in some parts of China. Certainly, the continuing disproportionate ratios in births is a serious cause for concern.

Speaking personally, I can say that the examples that you give do raise very serious human rights issues but they are not ones that we as a commission have authority to take up. I know that the Australian government of the day and all political parties through those delegations raised them directly with the Chinese authorities. I would assume, although I cannot speak for the present government, that those kinds of representations continue to be part of the human rights dialogue with China.

Senator HARRADINE—But some of those on that delegation believed the cover story that you mentioned, that the Chinese government is constantly saying that these are just aberrations. That is clearly a cover story. Have you not seen Dr Aird's material on this, where she goes into chapter and verse of the particular instruments that are put in place by the Chinese family planning officials with the full approval of the Chinese authorities?

Mr Sidoti—I certainly saw some of that material at the time, although I must say I have not seen any more recent work on it.

Senator HARRADINE—Do you know whether that is an ongoing thing with the Australian government? Is that a matter that is taken up by the Australian government with the Chinese—or, for that matter, the Indonesian—authorities?

Mr Sidoti—I do not know. I have no personal knowledge.

CHAIR—Thank you. The clock is moving on. Perhaps I could wind up this part of the session by asking two final questions. One is in relation to China and particularly to your view of the reversion of Hong Kong sovereignty to PRC last year, with the experiment of one country, two systems and the way that Hong Kong has been conducting

itself in human rights terms, apart from anything else, in the period since that happened in July last year. Do you see that potentially having any liberating—for want of a better word—impact on PRC, apart from opening it up to the world in commercial terms, and any liberating effect that that may have in human rights terms? My second question is that you said specifically, in one of the four points that you wanted to see us pursue, that you saw a greater role for interparliamentary cooperation, and I wondered if you had any particular suggestions in that line.

Mr Sidoti—With both of your questions, Mr Nugent, I am singularly lacking in expertise—to the extent that I have any. Firstly, so far as China is concerned, I have not been to China since the delegation in 1992, although I have met a number of visiting Chinese delegations that have come to Australia. The impression I get at this stage is that the Chinese government is very concerned to ensure that the Hong Kong experience does not have a wider impact within China; but, on a purely pragmatic level, I think that may be hard to sustain. Certainly, the exchange that is occurring between China and Guangdong province now is very great: there are very high volume exchanges not just economically but of people, influences, academics and so forth. There is some suggestion of a broader plurality and liberalisation spreading through southern China, with perhaps other parts of China continuing to take different approaches. Certainly, my experience in China in 1991 and 1992 was that the regional variations were enormous in general political liberality and human rights observance or violations.

We have some relations with an equal opportunity commission which was established in Hong Kong before the handover and which has continued to operate and is extremely well resourced. It has jurisdiction, though, only in relation to sex discrimination, disability discrimination and now family status or family responsibilities. So it is a limited body. There was, prior to the handover, a proposal to establish a human rights commission or to expand the role of the existing EOC to become more like a human rights commission, but that was not done before the handover, and I assume it is unlikely to be done, at least in the near future—which is disappointing. I think Hong Kong will be able to provide alternative models for political and social development to other parts of China, models which may well be found attractive—particularly, as I say, in southern China and perhaps in the Shanghai area.

I am afraid I have got no ideas at all about your interparliamentary cooperation; I will not even venture into that area. I know that there are contacts, and Mr Sinclair, as I mentioned, has discussed them with me on a number of occasions, but I have not been honoured to sit in the seat that you sit in and so I will leave that one to you.

CHAIR—Perhaps I will close that particular question by saying that you and I did discuss at one time whether the chair of this committee might attend the New Delhi meeting and, after several changes of dates, I noticed that it was scheduled for when I was actually elsewhere. I notice that you are scheduled to have your next meeting in Indonesia later in the year. I will give you advance warning that I am booked to go to Malaysia to

the AIPO conference in September and so, if you can avoid that, I would be grateful— notwithstanding the timing of any elections!

Mr Sidoti—It might assist you, Mr Chairman, to stop off in Jakarta on the way to or from Malaysia.

CHAIR—This is possible.

Mr Sidoti—Actually, if you could give us the AIPO dates at some stage, it would be helpful for us in our planning. We are looking at August/September as the general period again, but we will try and avoid the actual dates and perhaps it may be of assistance to you, given restrictions on travel overseas, to be able to go on the way to or from Malaysia.

CHAIR—All right, I will do that. Thank you. And thank you very much for coming here today. If there are any matters on which we might need additional information, the secretary will write to you. You will be sent a copy of the transcript of your evidence, to which you can make corrections of grammar and fact. Thank you very much indeed once again for coming; it is a pleasure to see you again.

Mr Sidoti—Thank you very much once again for the invitation.

[11.00 a.m.]

EVATT, Ms Elizabeth Andreas, 13 Glenview Street, Paddington, New South Wales 2021

CHAIR—Welcome. Thank you for coming this morning. The subcommittee prefers that all evidence be given in public but, should you at any stage wish to give any evidence in private, you may ask to do so and the subcommittee will give consideration to your request. Although the committee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the house itself. I invite you to make an opening statement before we proceed to questions. In fact, I noticed in your submission, which is a reasonably brief one, you actually concluded by saying you would like the opportunity to expand a bit on your statement. So perhaps that would be a good starting point.

Ms Evatt—Regrettably, one never has the time to keep up with important commitments. I will not make a lengthy statement; I just wanted to encapsulate the ideas that I was trying to set out in that letter, in the full expectation that you and your colleagues will want to ask further questions.

First of all, we must approach any regional dialogue on human rights within the context of the international framework, the international bill of rights and the United Nations framework for the protection of human rights. I see that as the overall context within which we should approach the issues. Within that context, I see the three principles that we should aspire to here as being, firstly, that Australia be a good international citizen; secondly, that we be frank, open and direct, without compromise in our principles; and, thirdly, that we understand that there are a myriad ways in which we can deal with human rights issues in our own and other countries—in other words, not just having a head-to-head confrontation.

Going back to the first principle, good international citizenship to me means that we should undertake and respect our international obligations under the major United Nations instruments. We should not only ratify them but also make our reports in good time and have processes in Australia which move us forward to greater respect for, and adherence to, those principles. Not only that, but we should also take a keen interest in the adherence of states in our region to those instruments, and a keen interest in their reporting processes and in the way that they have established internal processes to improve human rights—and I think Mr Sidoti was talking about national institutions as well.

The second principle is the frankness, the openness and the lack of compromise. I do not believe that we should engage in any kind of relationships with other states except on the basis of our own understanding of the universality of human rights and our own willingness to criticise, be aware and comment on what we see as failings in this country and in the region. We should not try to hide, in our dealings with other countries, human

rights situations which we consider are unacceptable.

The third point is that of understanding and the many ways to move forward. I believe that we need to see that improvement in human rights in this region, as elsewhere, can come not just from confrontations between governments at that level but through all the ways in which we have dealings with other countries. It can come through the activities of NGOs, aid agencies and commercial enterprises. In all our international dealings there should be a human rights component in the way we approach relationships with countries in our region—indeed all countries, but we are talking about our region today. I would see that as the framework for dealing with these issues.

I come back to a question that the chairman asked the previous speaker about China and Hong Kong. I would like to express the view that the transfer back of Hong Kong to China—the reversion of Hong Kong to China—and the negotiations that have gone on about that have had a positive effect on China's willingness to be involved in the UN human rights mechanisms. I cannot go into the detail of it, but I know that there were many discussions behind the scenes. I did not take part, so I cannot talk in too much detail about it, but there were many discussions behind the scenes about how Hong Kong could continue to report to the Human Rights Committee, of which I am a member, under the International Covenant on Civil and Political Rights. China was involved in discussions of this kind. It was not clear, because Hong Kong is not a state and China is not a party, so how would it happen?

I think you would all be aware that recently, when the head of the Chinese government went to visit the President of the United States, China announced its intention to sign on to the International Covenant on Economic, Social and Cultural Rights. What might not have been well publicised at that time was also a statement by China that they would make the appropriate arrangements to ensure that reports from Hong Kong, under both the covenants, would be sent forward to the UN system. This is a major step forward. This has, in an indirect way, involved China in that process. I see that as a positive step. I thought that might assist in the question that you asked. That broadly is the framework within which I see we should approach regional dialogue on human rights. There is much detail to fill in there, but perhaps that might come out better in discussion.

CHAIR—Thank you. This committee has taken a particular interest of late in Hong Kong. We held an inquiry before the handover and we are considering whether we might make a return visit in, say, 12 months on from the handover to see whether things actually happened as we thought they might or whether they did not. That will be a very interesting exercise.

Privately, I must say that, after our visit to Hong Kong at the beginning of last year, as part of that inquiry I went to Beijing and met people like Zhu Rongji at some length. My private opinion is that the exposure of the Chinese leadership is getting to the rest of the world. Everything is not going to happen tomorrow. They have incredible

internal problems and divisions and so on. I have to say there is a movement there but it may take a long time.

Ms Evatt—A slight movement.

CHAIR—Yes, that is right. You talk about the framework and the principles of how Australia should proceed in the region on human rights. What is your perception of the score?

Ms Evatt—If we start back at the top again, it is true that Australia itself has ratified the major human rights instruments. Once you go beyond the question of ratification, our reporting record of late has been rather poor, granted we have reported to the committee on the rights of the child. That was dealt with last year.

The committee will probably know that the report that went to the CEDAW committee—the committee under the women’s convention—was not very well received by that committee. I do not want to go into the details of that. The worst situation is in regard to the International Covenant on Civil and Political Rights, because our third report under that covenant—the reports come at five-yearly intervals—should have been put in six years ago. It is now more than six years late. On the figures that I have just given to you, that means the fourth report became due and is now more than one year late. Although I am told by the people in the relevant departments that it is going to be ‘real soon now’, I still have not seen it, which means that report is unlikely to be considered this year even if it comes in over the next few months.

In 1999 it will be 11 years between the consideration of the last report and the next report. I know that people will say, ‘What does that matter? Our record is not so bad.’ That is not quite the point. Countries who have good or relatively good human rights records also report regularly. The committee is able to see what has happened and to probe into those areas—maybe a few, maybe many—where further work needs to be done. If we think our record is so good we should expose it to the international community so that it can be looked at, examined, probed into. We have not done it. I think that is rather poor. Because we have fallen down in those respects, I believe that undermines our position in dealing with other countries on their records. It is difficult to make criticisms or comment on the failure of other countries to respect their international obligations when we have not done so ourselves. I find it an increasing sense of embarrassment, personally.

I do not represent Australia in my dealings internationally. I am independent. Even so, I am from Australia and I have to feel that sense of embarrassment and slight shame that we have not fulfilled our obligations under the covenant. It goes a little deeper than that in that I hear coming from government criticisms of the committees, which I do not consider always justified, but I do not want to go into that. I just want to say that, to have credibility and moral authority in regard to human rights, Australia must be sure that it is fulfilling its own obligations.

Secondly, on this question of frankness, I sometimes am concerned when I hear leaders of our government of all political persuasions saying, as they do so constantly, that they do not want to have confrontations with other countries about human rights. 'This is a matter of domestic jurisdiction and we shall do our work behind the scenes in quiet talks,' they say. That is all very well. One hopes that some of those quiet talks may have fruitful outcomes, but I personally do not think that is enough.

When we see a spade we have to call it a spade. When we see a situation where human rights of whatever kind—economic, social, civil or political—are not respected, we should be prepared to say so. It does not mean we have to send in an army or anything like that, but we have to be open and honest about it. I do not believe that we can, in the long run, establish effective relationships in our region if we are not frank and open about human rights. If we approach our criticisms of human rights records on a selective basis that is even worse, isn't it?

To say, 'All right, we can criticise this country because it won't affect anything else, but we won't criticise this other country because that might harm some kind of trading venture,' is to me not good enough. We must find a way to speak the truth about the human rights situation as we see it. We must find a way to speak the truth which is open and frank but has the objective of maintaining a relationship, not severing it—in other words, to maintain a frank dialogue. I think we fall down there.

On the third point of the understanding in many ways I think that is the area where progress is being made through the aid bodies. They are increasingly aware of the need to build human rights into their perspective. The work of our Human Rights and Equal Opportunity Commission in maintaining dialogue with human rights agencies in other countries is going quite well and keeping those issues open. That is a long answer to your question.

CHAIR—Accepting your comments about reporting obligations and the deficiency of the government—

Ms Evatt—All governments in this case.

CHAIR—but putting them on one side for the moment, what would be your score card on the human rights situation with our major regional neighbours, given that this inquiry is looking at human rights progress in the region?

Ms Evatt—Do you mean for Australia and for others?

CHAIR—For other countries in the region.

Ms Evatt—For other countries. I do not profess to be an expert on every country in our region. I will point out at once that, as far as the International Covenant on Civil

and Political Rights is concerned, while many countries in this region are parties—and that includes India, Japan, the Philippines, Thailand and so forth—two major countries, China and Indonesia, are not parties to that covenant and therefore have not had their human rights record exposed to the gaze of the Human Rights Committee. India certainly has. We looked at a report from India last year. Does that come within your area of consideration?

CHAIR—Yes.

Ms Evatt—We were very much encouraged by the work being done in India by their human rights commission, which has been set up at a very high level and has quite strong authority to bring about change in regard to treatment of prisoners and in some other areas. At the same time we did feel, and we said this quite clearly, that the government has not put enough energy, effort and resources into improving the human rights situation of women and children. Women still suffer violence and death in India at a most alarming rate. Children, as we know, are often denied the right to education and they survive by various forms of exploitation of their labour.

I cannot go into the whole of India's human rights record, but there are some good and some quite bad aspects of it. Many of the countries in this region fall down on the question of democratic participation. India is not one of those. India does still have a thriving democratic tradition, but many of the other countries do not have strong democracies. That, I believe, will inhibit their ability to comply with human rights standards.

One can look at specific issues which are of grave concern in the region. Where there is a lack of democracy, what goes with that is the use of the authoritarian power of the state to detain and torture, and the lack of an independent judiciary to protect the rights of citizens. Those things go with a weak democracy. At the individual level, the rights of women and children in many of the countries in our region fall far below the standards that we would like to see in force. They are similar to what I have said about India.

I am not saying that Australia has a perfect record either. Indeed, there is our failure to implement fully the economic, social and cultural rights of our indigenous communities. That is probably the most glaring deficiency. Also, we share with other countries similar to Australia, that is to say the Western democracies, an incipient racism which is often checked, but it still seems to be bubbling away there under the surface and it shows up in most unfortunate ways from time to time.

CHAIR—Thank you. I will give some of the other members of the committee an opportunity to ask questions.

Senator REYNOLDS—The year 1998 seems to be a very important year to turn around some of the attitudes and practices in relation to human rights. It seems that in too

many circles—be they governments of whatever persuasion, business, or the general community—human rights is sort of regarded as something ‘out there’ and not directly relevant to people’s lives. Yet we know that Australia, like so many countries, is committed to protecting the human rights of all citizens, even if we do not always report on time, as you have indicated.

How do you suggest that this committee could try to foster a fresh approach to human rights, particularly human rights education, in 1998, being the 50th anniversary and into the third year of the decade for human rights education? We are running behind schedule. Knowing the agenda so well, how can we make it relevant to the general community?

Ms Evatt—That is a huge question. By talking about it is one way, but also by approaching it on a sectoral basis. For example, our business people have constant dealings with our neighbouring countries. There needs to be developed an ethical approach by people involved in international trade as to how to conduct your business to ensure respect for human rights, on both sides of the border.

Certainly, our aid organisations are already into that. But you are talking about educating the Australian community. I think you have to show how the particular issue you want to talk about is relevant. If you just read out the principles of the universal declaration—and they are wonderful principles—it is like reading out the Ten Commandments or something like that. You have to make it real. You have to show to people how the decisions they make in their daily lives can make a difference to the enjoyment of human rights by other people—the choice of what goods you buy, the choice of how you use the environment, political choices, or the kinds of things that you could tell your local member that you want government to do.

If one could work out a set of scenarios of that kind and present them to people then they would say, ‘Yes, I can be involved in this’. If you read out the principles of the declaration to people they would say, ‘Yes, of course we’d like everybody to enjoy these rights, but we don’t know how to do that.’

What about the way you travel in Asia? That is very popular among Australian people. A lot of people travel in Asia. If you travel in one way or in another way, does that advance or detract from the human rights of the people in that country? Do people care? I think people would care if they knew. I know a small human rights body in New York—I will just mention it as an example—that is trying to set up an ethical travel bureau to send people to Nepal. The Nepalese end of the travel will be organised by community groups of women who will actually get the benefit of the money that is spent, rather than agencies based somewhere else that will channel it off into other areas.

So there are lots of ways. Look at all the ways we have contact with these

countries. Develop scenarios and present them to the community. Maybe you could get one of these wonderful groups that make films or videos to produce something to be shown publicly.

Senator SYNON—You mentioned in your submission that the Asia-Australia Institute is working towards a regional policy. Could you tell us a little bit about the work of that institute, particularly in the area of human rights? Secondly, would you agree with Mr Sidoti's comment that a regional policy may just become the lowest common denominator and the more important criterion is to be using our influence to get countries to sign universal declarations?

Ms Evatt—I have got with me the prospectus of the Asia-Australia Institute, which I would be happy to leave with you. Professor Stephen Fitzgerald is the director of the institute, and I am a member of the advisory board.

The Asia-Australia Institute does not carry out human rights activities—let me make that quite clear. The purpose of the body is to bring together community leaders from different countries in our region to talk together positively in different fora about the development of common values in our region, including human rights values. The idea is simply that by bringing together people—I do not say people of influence but people who occupy key positions in different countries, business people, government people, academic people—from all the countries to mix socially and to talk in structured ways, this will promote our understanding of the outlook and values of our neighbouring countries.

I have certainly found in the two years that I have been on the institute, and I have attended two different fora so far, that this is invaluable, especially the social contacts that you have. We each go back to our own countries with a better understanding of our region. That is what it is about. Certainly, we like to talk about the shared values in connection with human rights, but that is one of the topics that we discuss. I put that forward as one of the myriad of ways in which we can improve our regional human rights dialogue. That is just one example.

You asked about regional human rights mechanisms. We would have to start with the European Convention on Human Rights which is a well-established convention between Western democracies. Then there is the inter-American system and the African system. They are all somewhat different. The European is the strongest and most effective.

I would tend to agree with Chris Sidoti and with your comment that to try to develop a covenant or convention on human rights in this region here and now would probably be doomed to failure. And why do it at this point? We already have a very high rate of membership of other instruments, particularly high in regard to the Convention on the Rights of the Child and the Convention on the Elimination of Discrimination Against Women. Also, CERD has quite a high rate of ratification. Those three do.

In regard to the two covenants, as I said earlier the two glaring omissions are China and Indonesia. I would prefer to see the focus being on trying to bring them into the UN system as the first step. They are both parties to the Convention on the Rights of the Child and the women convention. I think Singapore also is not party to the covenants, but Singapore is not a major country compared with China and Indonesia. So I would put the focus on bringing them into the covenants and encourage them to reaffirm this year the principles of the Universal Declaration on Human Rights, which is, after all, the base document on which the two documents are based.

Mr HOLLIS—When you were replying to a question from Senator Reynolds you mentioned something about business people being one of the groups that can have an impact on human rights. My impression of Australian business people in Asia would be that they would be the worst people. I remember being on a parliamentary delegation to Indonesia and we were trotted in to meet a group of Australian business people who were doing particularly well in Indonesia. In the time we were with them, three or four of them spent the time haranguing us, telling us how far down their businesses went every time we politicians opened our mouths about Timor and issues like that. Chris Schacht, who was leading the delegation, gave as good as he got. He said that we had a larger constituency than just their business interests, which is true.

Again, when I was with the chairman in Hong Kong last year it seemed to us that most of the business people we spoke to there were terrified that our report was going to be somehow critical of human rights issues. They were not quite as forthright as those in Indonesia, but they kept saying to us that we had to look at everything from a Chinese perspective. I just throw that in as a comment, but it leads me to a question I want to ask and that I put to Chris Sidoti when he was here.

This committee is looking at this regional dialogue on human rights and we are going through this very interesting period in Asia at the moment with the economic situation there. Also, there has always been the argument between economic, political and social rights, and we have had people saying that the universal declaration should be refined. With that very long preamble, my question is: what is your reading of the situation? Do you think the current situation in Asia, the economic crisis, is going to lead to a strengthening of human rights or is it going to lead to many people claiming, ‘You people are meddling in these affairs. We have to get the economy right before we worry about the individual rights of people’?

Ms Evatt—I do not claim to be an expert in these high issues but, just as an ordinary person interested in human rights, I could not help thinking when I saw what was happening in Indonesia that here was a country whose underlying corruption had been exposed to the international gaze. I said, ‘This must be a lesson for the business people who have done their work in Indonesia and have had to pay bribes, have had to pay out money to the family of the leader of that country, in order to do business there.’ This has been exposed. It does make very hollow the statement that we must get our economy right

before we can look at individual rights.

Surely the situation that we see now has shown that you cannot have, in the long run, a sound economy without basic human rights, education and participation in government—that is to say, economic, social and cultural rights as well as civil and political rights. Otherwise you just have that kind of corruption and denial. Because of what has happened they are not able to deliver economic, social and cultural rights; the thing has gone down the spout.

In regard to China, who can claim to be able to make an authoritative statement about such a vast country? As we heard, they are loosening up a little there. I believe that in Hong Kong, although the business people may not have given much care for human rights, there were people who did. They have succeeded in ensuring that Hong Kong has a sound legal system, a court system and a bill of rights. We hope they will go okay. Business operates within that environment. Imagine how they would be able to operate if those rights were taken away. They do not ask themselves that question.

CHAIR—I think the overwhelming view of the business community was that they wanted transparency of the rule of law but it was much more orientated towards commercial law, and criminal law and matters of corruption than necessarily human rights issues. I think that was the overwhelming message that came through to me.

Ms Evatt—It is easy to say that when you are living in a situation where basic rights are protected. Take them away and business will suffer along with everyone else.

CHAIR—I am not disagreeing with you. I am saying that I think that is the view that came through to us.

Senator HARRADINE—They are facilitation payments, aren't they?

Ms Evatt—Sorry, I should have said that instead of bribes. I will not ask leave to amend that.

Senator HARRADINE—No, I do not think you should!

CHAIR—I will bow to your superior knowledge in that field, Senator Harradine. Do you have a document for us?

Ms Evatt—Yes.

CHAIR—It is a prospectus of the Asia-Australia Institute, published by the University of New South Wales. It becomes an exhibit to the inquiry into the regional dialogue on human rights.

If there are any matters on which we need additional information, our secretary will write to you. We will send you a copy of the transcript of your evidence to which you may make corrections of grammar and fact. Thank you for coming to see us.

Ms Evatt—Thank you.

[11.51 a.m.]

GOODWIN, Mr Timothy Charles MacGregor, National Campaigner, Campaign Strategy Team, Amnesty International Australia, Level 3, 51-55 Mountain Street, Ultimo, New South Wales

ISBISTER, Mr James Wallace, Strategic Alliance Specialist, National Campaigns Team, Amnesty International Australia, Level 3, 51-55 Mountain Street, Ultimo, New South Wales

CHAIR—On behalf of the subcommittee, I welcome the representatives of Amnesty International to our hearing this morning. The subcommittee prefers that all evidence be given in public, but should you at any stage wish to give any evidence in private you may ask to do so and the subcommittee will give consideration to your request. Although the subcommittee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the House itself. I now invite you to make a short opening statement before we proceed to questions.

Mr Goodwin—On behalf of Amnesty International, I thank you for this opportunity to make a presentation to the subcommittee. Amnesty International Australia is increasing the priority of its work in the Asia-Pacific region in many ways, and this meeting is an ideal opportunity for us to speak with the subcommittee and to develop our own thinking on promoting human rights in the region.

I wanted to start by reiterating some of the points that we have made and by drawing your attention to a few points in our submission. We framed our submission in terms of the current debate on universality and the indivisibility of human rights to attacks, if you like, on the very concepts of human rights as being the birthright of all individuals and also of being indivisible in the sense that one category of rights cannot be ranked before another. We cannot have some sort of tick list that suggests that once we have ticked our way through the first couple of rights—maybe economic and cultural—we can then move on to the issues of freedom of speech or of engagement in the political process.

In our submission we sought to pull apart what we see as the constituent elements, whether they are cultural, political, economic or national sovereignty, that form part of this argument and that serve interests. We want to be very clear that these arguments are as much defences of particular vested interests in the region as they are statements of principle. That comes out when you look at the broader voices of civil society whom we engage with in our work on human rights in the region and whom we ultimately defend when their human rights are under attack—the voices of the NGOs, the voices of intellectuals and what are often termed dissident voices, or the political prisoner voices who, in the case of somewhere like China, are actually crying out that these are basic

human rights and that they do not accept that their culture has a right to gaol or to torture them or whatever the case may be.

In that context and in the context of the 50th anniversary year, we see this year as very timely to reinforce our commitment to universal and indivisible human rights and to actively and passively defend those rights in a robust manner in the region—in other words, not only advancing them but also challenging the challengers to universality when they appear. It can be very easy to give complicit approval to the undermining of these rights—with very significant consequences, as we have seen.

The other point that we were wanting to make is that Australia needs to take a very strong and a very consistent line in the region both in terms of our bilateral relationships with various countries and in terms of multilateral fora. Amnesty International has been very concerned over the last year or so to see what we think can only be read as a weakening of Australia's commitment, particularly with regard to the multilateral fora. The obvious example is the commission on human rights. We saw Australia's performance last year at the commission as quite significant in undermining a consensus that had previously existed to pressure China on human rights and on the advancement of human rights in China.

I was reminded of that when I read a recent interview that Wei Jingsheng gave at our international secretariat in London. He said that throughout his 18 years in prison it was quite clear to him when consistent, concerted pressure was being placed on the Chinese government because that was when his conditions were improving. The converse was also true: when his conditions were worsening, he found out in various ways that that was when governments were 'exploring other means'—which is often a euphemism for downgrading their commitment to human rights. Having said that, we believe that the bilateral relationships hold great potential for the promotion and the protection of human rights but that that bilateral agenda must not be pursued at the expense of weakening those multilateral fora such as United Nations mechanisms.

We wanted to highlight five key points—and we can come back to these in question time; I will not go into them in too much detail at this stage—and there were five parts of our submission that we wanted to draw your attention to. They are things that the subcommittee may wish to consider in its final report. The first part was the issue of the integration and coordination of human rights across all areas of government activity. We are concerned that human rights not be seen as an issue that can be quarantined, if you like, to one particular area of government activity—in particular, that of foreign affairs.

We thought it was telling in some ways, with our Universal Declaration of Human rights campaign, when we were inviting various figures, including our Prime Minister, to sign on to the principles of the UDHR, that the first response we had—admittedly, from a staff member—was that we should talk to Foreign Affairs, because that was their portfolio area. This comes back to what the previous speaker was saying about promoting human

rights within the community.

We are looking at recommending that the committee examine a mechanism that will actually coordinate all areas of government activity—business, trade, military relationships, aid—looking at consistency, policy advice, and a whole range of internal and external matters. We see that as a glaring gap, if you like, in the current system within Australia. We can throw up a question, for example, with the current crisis in Indonesia: what role have human rights considerations played in how the government has responded to that crisis? We can come back to the topic of Indonesia a little later.

The second part is the area of ratification rates within the region. We see the conventions, such as those on civil and political rights and on economic, social and cultural rights, as being the building blocks for the system of human rights protection, and as very much a starting point for our protection and advancement of rights in the region. Of course, aside from conventions like CROC and CEDAW, there is a very low rate of ratification in the region. Very few countries have ratified the two conventions and, furthermore, many countries have been active in undermining those in international fora. The 1951 Refugee Convention came up as a big one in our refugee campaign last year, where a country like Thailand on EXCOM, the main committee for the refugee convention, has not actually signed the convention; and yet they are also struggling to deal with enormous refugee problems.

The third part is the area of treaties. Here we are looking in terms of both the domestic implementation of conventions and, on the other side, the role of human rights in treaty making. In terms of domestic implementation, we see it as a foundation point that our credibility within the region depends on our performance on these issues at home. We have watched with alarm and we have campaigned on the issue of things like the administrative decisions bills that have come and gone over the last couple of years, where we are very much sending a message that, by committing ourselves in international fora to these treaties, we are in no way accepting domestic obligations.

We would see it the other way around: in fact, rather than trying to stop administrative decisions from taking those treaties into account, we would argue that we need to turn the project around and ask, 'How do we look at our own laws, legislation and performance across state and federal governments in order to bring that into line with those commitments?' On the other side of it, again there is the question for the committee of what role the human rights implications of treaties play in future treaties that are being negotiated. In the last couple of years we have seen a concerted attack on the treaty making system within Australia, and this is an opportunity for us to be saying, 'Yes, there are issues here.' Furthermore, there are issues around what the human rights implications are of treaties and of other agreements, such as the multilateral agreement on investment—which we can talk about as well—that may have significant human rights implications; but where are those being considered in the process?

The fourth area is that of business and human rights. This is taking up on some earlier discussion of this issue. We have been seeking to engage the business community a lot more in the last couple of years with the rise of globalisation and, in many ways, corporate influence and the negotiation of agreements around APEC and the World Trade Organisation: these sorts of multilateral business fora. They provide an opportunity for us to promote human rights in the region, and we are very much encouraging the government to take an active line in developing discussion with the business community about how they can play a role in promoting human rights but also on the other side about companies improving their ability to deal with human rights issues.

These matters are not peripheral to business operations. They do not relate just to issues of their political context but also to many areas to their direct operation. Mining companies in somewhere like Indonesia or the Philippines cannot escape from the issue of whether human rights violations are going to be committed on their behalf, possibly with their agreement or possibly with their compliance. That has very real business implications as well. That is something which we have been engaging with in our discussions with business: poorly handled human rights violations or poorly handled issues of how they promote or ensure that human rights are protected within their operations, will rebound on their business operations.

The final area that we wanted to highlight was that of the national human rights institutions. We see as very much an encouraging sign in the region the proliferation of human rights institutions and human rights commissions of various sorts and the increase in contact that there has been between those institutions. We are very pleased to see that Australia has been playing a key role in this development. They are very much a practical mechanism for developing those commitments and developing the debate within societies and between societies on human rights and also for implementing those standards at a domestic level.

We would like very much to encourage the Australian government to continue that support at a time when those notions of universal human rights, as I opened with, are very much under attack in the region. Human rights institutions represent a very strong voice in the discussion within societies, and that is something that we would like to encourage in further developments, through both work on human rights institutions and the human rights education elements of the aid program.

CHAIR—Thank you. Given that the inquiry is looking at the region and human rights, I would like to get Amnesty's impression of, if you like, the scorecard of some of the major players in the region, stretching from India, Pakistan and the subcontinent, where issues concerning women and children are probably amongst the biggest difficulties. I can remember asking the chairman of the Pakistan Senate human rights committee about 18 months ago—a human rights committee, I might add, that in five years has produced one two-page report only—about child labour, and their view very much was, 'The country's economy would collapse if we didn't have child labour.' The treatment of

women in Pakistan, in particular, has been very bad.

Of course India, a huge country, has got not dissimilar problems. The region goes from one extreme there right the way across to China, as well as to our nearest neighbours. Perhaps you could give us your views on how you see some of those major countries performing in human rights terms? I do not mean 'This is bad' or 'That is bad.' Have you seen any change in the last quarter of a century, for example?

Mr Goodwin—I can give a couple of quick snapshots. With India, to pick up on one of your examples, we have been deeply concerned about a range of human rights violations across the subcontinent—from torture in police custody through to the emergency legislation which enables virtual impunity for the armed forces in areas like Kashmir, for example. Those have been very deep concerns for us. We have been pleased to see the Indian government has been more open in its dialogue with Amnesty International in recent months, but we still await developments in that regard.

That is an example of where they have a human rights commission that is doing a lot of good work and is dealing with an enormous complaint level, from what we have heard, but where, at the same time, the special legislation actually prevents them from investigating some of the worse violations in the country—in general, in Kashmir itself. So there is a definite issue there about how the institution is actually allowed to do its work under the international standards.

An issue like child labour is certainly a very serious one that we will be taking up in our campaigning throughout this year in southern Asia. One of the issues there is where governments are either defending it or, in cases such as Pakistan and India, taking the inaction line: the line that they are powerless to stop it, or that they have made efforts of some form to stop these practices from continuing. Our campaign will be looking at that very much in terms of international obligations under things like the Convention on the Rights of the Child.

A country like China is of very large concern for us. They have by far the massive majority of executions throughout the world and a very widespread use of unfair trials, and there are a whole range of issues around forced sterilisation, torture in custody and suppression of dissent. I do not need to go into detail on that, except to say that it is of very deep concern to us.

CHAIR—But do you see any improvement?

Mr Goodwin—We have seen some improvements in terms of how the judiciary is starting to develop. Those are definitely positive signs; and, certainly, things like overseas aid programs that are looking to engage the judiciary in technical training programs we would see as a good step in that direction. But, at the same time, we are very concerned.

Another positive is that China is talking about signing the International Covenant on Economic, Social and Cultural Rights. We would remain very concerned, though, that this not be some kind of carrot, if you like, that enables us to then back off from our criticisms or our discussions with them about advancing human rights across the other side of the spectrum. Being seen to make small compromises in certain areas or to work towards certain compromises in order to buy the silence, say, of the commission on human rights is something that we would be very alarmed about.

It is definitely a long-term challenge as far as restrictions in the use of the death penalty, improvements in training, the operation of the judicial process, and the development of things like respect for the rule of law go. This actually starts to come into where the business community puts its arguments around transparency and the rule of law.

Mr Isbister—There are some countries where we often forget that positive points have come about. There is no doubt, especially when you think of South Korea in the 1970s and 1980s and today, that although there are a lot of problems of corruption and transparency, et cetera, its record has undoubtedly improved significantly. Obviously in the Philippines, from the early and mid-1980s, although there are numerous cases of extra-judicial killings, et cetera, the overall situation has got considerably better. Thailand is probably another example: considering what it is has gone through even in 1992, et cetera, it is very positive.

Some of the continuing concerns that the Australian government obviously needs to be aware of in the region are the issues around national security. Governments have constantly put forward reasons for implementing emergency procedures or whatever else. That is where often the most systematic violation of human rights has occurred, supposedly under the issue of national security. The growing trend these days is for countries becoming increasingly able, through regional forums such as ASEAN, to protect one another from attacks or from issues being raised regarding their human rights records. Within that, there is Australia's decreasing concern for or even ability to raise those issues or push those concerns through in fora such as ASEAN.

CHAIR—Do you not think Australia does that?

Mr Isbister—I think it has but I would say that there is no doubt that in recent years there has been a change, in that the constructive engagement approach is seen as more effective and the line of quiet diplomacy must be followed through. There are the outstanding examples, such as Burma, where the Australian government still comes out very strongly on that record, but there are probably more opportunities where the government could come out and not necessarily have to fall into the ASEAN grouping at the moment in human rights promotion.

CHAIR—But has there not been recently a change within ASEAN? There has been a different approach from Australia in the last couple of years as to how it

approaches some of those issues. In fact, there has been a noticeable change—maybe as a result of that, or maybe as a result of other things—in terms of ASEAN no longer taking the line that it will not look at what goes on within other countries. In fact, ASEAN has become quite proactive at becoming involved in what goes on in other member countries. I would have thought that their attitude to Burma was an example: they have taken Burma in, but they have been very specific about some of the conditions. And in terms of Cambodia they have become actively involved.

Mr Goodwin—Yes, that is certainly a development that we have seen as a positive. The ASEAN meeting against a backdrop of the Cambodian conflict last year was a case in point, where the non-interference line was starting to turn in favour of one that would be more amenable to the promotion of human rights. That is a very positive development, but it is one that we see still has a long way to go, I would think.

CHAIR—Yes.

Mr Isbister—But there is also the danger with the ASEAN meetings of the active exclusion of human rights from any discussion that happens: ‘We have formed a regional bloc, and we will look after these issues within our bloc, and it is not of interest to anybody else.’ That attitude is increasingly of concern. Human rights records anywhere in the world are not exclusive to a particular regional group or whatever else.

CHAIR—How would you see the performance of Singapore? It is a very economically successful country, with an open democracy and all those things. They have the rule of law in the same way that we would say that we have it and they apparently do all the things we do. How would you assess them in human rights terms?

Mr Isbister—I guess it would be nice if Singapore ratified a few more conventions or covenants. But, on top of that, if you look, there are probably issues around freedom of expression in the Philippines that are very questionable, even with the elections last year and what has come from that. That is probably one of the large areas where, at a democratic level, there is more open ability for people to express their viewpoints, for opposition votes or for NGOs to be able to express their concerns and raise issues that concern them in their country, more than anything: which is something Australia very does much have.

CHAIR—Which countries in the region does Amnesty find difficulty with operating in? I would assume that you do not have too much problem operating in Singapore. I know you do not have too much difficulty operating currently in Hong Kong and, presumably, India is not a problem.

Mr HOLLIS—Perhaps they have that because they do not report on that country. If they were reporting on Singapore or Hong Kong, they might have a few more problems than they have got.

CHAIR—They have reported on Hong Kong recently.

Mr Goodwin—There has been a mixed record across the region, ranging from China, where they have done everything they can to keep Amnesty out of the country completely. About the only time we have actually had a significant presence in China was at the UN conference on women's rights a few years ago. I would suggest probably they could not keep us out, given the nature of the conference. But they have been very active in excluding us from visiting, whether that was for meetings or research visits or whatever. In fact, our information, even when it is derived from the China *People's Daily*, is still accused of being false and misleading propaganda: even Chinese official sources are regarded as tainted, once Amnesty has published the information.

In countries like the Philippines, India and Thailand, we have got a very strong and developing presence. But, at the same time, there are two sides to Amnesty's work. There is the work of individual Amnesty members working on promoting human rights and also working on international campaigning outside of their countries. But there is also the international dimension of reporting on the country itself. In somewhere like India, where we have Indian Amnesty groups—or even in Nepal, for example, where there is a very vibrant section—we still have a very difficult relationship with the government in getting access to the country and getting access to certain regions in order to report on violations within the country. Sometimes there can be a split between what is tolerated in terms of domestic activity and what is tolerated in terms of international scrutiny.

An Indonesian presence is almost impossible at this stage. Our researchers can visit but they have no presence beyond that. In Malaysia, probably the number of Amnesty members can be counted on one or two hands. They are often involved in circles who are coming under attack for their involvement in other areas of political activity themselves.

CHAIR—My colleagues should have a turn.

Senator HARRADINE—I have a couple of questions. Has Amnesty taken soundings recently about the public's view of capital punishment in Australia—for example, post the Port Arthur massacre?

Mr Goodwin—We have not, in terms of surveys or opinion polls or anything like that. Obviously, it is one that we watch with interest and we step into the debate when we feel it is constructive to do so. It was on talk-back radio in the car coming over, with Karla Faye Tucker's execution this morning in Texas.

CHAIR—Has that gone ahead?

Mr Goodwin—It had not gone ahead when we came here at 11 o'clock, but that was around the time it was scheduled.

Senator HARRADINE—It was up to George Bush, wasn't it?

CHAIR—Yes, George Bush Junior. She was going to get executed.

Senator REYNOLDS—I, first of all, compliment Amnesty on the very comprehensive nature of your submission. It has so much detail in it. I particularly appreciate some of those key issue points that you have made, which I will come to in a minute. However, this is a reprimand, but not to yourselves. Why has the Amnesty International 1997 annual report, quoted on page 51, ignored what I would consider to be some key international human rights treaties? I know it says the appendix is a ratification of selected international human rights treaties, and you say that they are selected, but I am wondering why, if Amnesty is going to do this coverage, it omits rights of the child, racial discrimination, CEDAW and genocide. I am wondering why Amnesty made that selection.

It is hard to select because, once you select, you are saying that this one is not as important. Yet, in your submissions to us, you have mentioned rights of the child and you have mentioned CEDAW. I would just make that point about what is not your direct responsibility, but I do think it is relevant to raise it.

Mr Goodwin—I think there are two points. One of them is that we had personnel difficulties in London and we were waiting on the information from relevant people which did not come in time. The other one is that Amnesty is like a lot of organisations and institutions. We are, ourselves, dealing with the challenges of how we look at, say, civil and political rights within their economic and social context and how we make more comprehensive and certainly more credible our work on women and children's rights. Your point is well made.

Senator REYNOLDS—Just so that you do not feel badly about it, could I say you are in very good company. When I was at the UN last year, I contacted the Attorney-General's department for a progress report of where we were in meeting our human rights obligations. The official notification, which I have kept a copy of, omitted several conventions. I think it was three or four. This is not meant to be a direct criticism of the unit or the officers responsible, but it just highlights that, until we put a little bit more resourcing into regarding this work as important, these slip-ups will occur. I am sure it was just pressure of work and that kind of oversight.

To come to the issues, you mention in your submission the importance of parliamentary monitoring. I can imagine a Senate estimates committee calling departments to account in terms of meeting their human rights obligations. It is a wonderful concept, but I will not hold my breath until it is implemented.

CHAIR—Why not? You could do it.

Senator REYNOLDS—I am wondering how you regard the work of the joint

committee of the parliament. It could be looking at precisely this kind of approach instead of nitpicking about whether or not we should have ratified the children's convention, which I understand they are currently working on.

Mr Isbister—I guess what you are saying, and what we are calling for, is a human rights audit across government borders. One issue which would be worth looking at that is probably feasible, and of great concern to us at the moment, is that at the moment in Cabinet, when parliament is looking at signing on to international treaties, there is very little focus put on what the human rights impacts of some of these treaties could be. Some examples at the moment might be a multilateral agreement or investment. Our concern is what sort of time is put into putting together detailed information about what the impacts of these treaties could be for decision makers—whether parliament or Cabinet—and whether some process could be in place at the very least for international treaty signing.

Senator REYNOLDS—I think you will find that any Cabinet submission has that kind of information across-the-board. There have to be budgetary implications, whether in the social impact or community impact. The structure of Cabinet papers includes that kind of information. I am wondering whether the point you are making is that, although it is there, because of resourcing there is not the detailed consideration.

Mr Isbister—That is possibly the consultation done in terms of drafting up these international treaties and preparing the section on the human rights effects and such things; whether or not there could be consultation with NGOs and organisations in Australia to feed into some of that at the very least.

Mr Goodwin—As you pointed out with the various conventions, the blind spots that cause people to leave conventions out of their lists are also the same sorts of blind spots that encourage problems to be seen in ways that do not bring human rights into them, such as an issue like a crisis being considered as a regional security crisis without being seen also as a human rights issue or one where human rights violations are going to contribute to the instability. Amnesty is not in the business of drawing up structures and solutions and saying, 'This is the absolute way it should be done.' Our focus would be more on setting what outcomes we would see a need to come out and, if it is appropriate for that to happen through the operation of the committee in an oversight role there and it is delivering that sort of coordination and scrutiny, we would be very happy.

Senator REYNOLDS—The second issue I wanted to raise with you was human rights education, particularly given the fact that this is the fiftieth anniversary year and, to my knowledge, there is no official government policy on human rights education for the decade except what is done in the course of their work by the Human Rights and Equal Opportunity Commission. Amnesty has an excellent record in terms of human rights education, just by virtue of doing what you do.

I wonder if you have any thoughts either now, or to put in writing, about

generalised human rights education. No governments are going to put in large amounts of dollars for human rights education, so how can we utilise the structures and personnel that are already out there in schools, organisations and government? Do you have any ideas about how we can overcome this vacuum. It is because of a vacuum in human rights education that governments around the world get away with not meeting their obligations. It is a very marginal issue for most people in the community.

Mr Goodwin—Certainly we find enormous scope within our work in schools around the country with a combination of teachers who are willing to teach units like history and civics programs and things like that in terms of formal education. At the same time, the passion and energy and desire to work on human rights coming from school students is inspiring for just about anybody older than school age. There is enormous potential there.

I think I would have to talk to a few more people before answering in detail. The one overall comment I think I would make—and this is pertinent in the UDHR year—is that the structures and institutions that are there need to be encouraged in many ways to see what they are doing in a human rights context.

In some ways this is Elizabeth Evatt's point, taking the UDHR from being nice sounding statements and taking them into day-to-day activities. There is an article in the UDHR that relates to anything anybody does, providing they are not being prevented from doing it. Human rights is already there, it is just not being talked about in those terms.

Mr Isbister—We will look at two other things in relation to what the government might be able to do, and they involve AusAID and Austrade. With AusAID, there have been scholarships for people in the region to come to Australia for training and education. There is no doubt that has been very useful. For example, a lot of Burmese students came from Thailand in the early 1990s. On the other side there is support for organisations such as the Overseas Service Bureau which sends volunteers abroad to gain experience in different situations. People then come back and are able to put that back into context here in Australia. That is pretty important.

In terms of Austrade, in terms of our interest in the business area, we would be looking at ways that Austrade, in its work with business, could encourage businesses to promote human rights and be part of the training of Austrade staff as well.

Senator HARRADINE—I was very interested in what you said about PNG. It is very close to us, of course. Could you elaborate a bit on how we can improve the training of the PNG constabulary and the PNG defence forces in terms of human rights? How can we improve the program? What is lacking in the program? Is the program lacking? Is its application lacking? Do discussions take place? Obviously, discussions would take place between the government and the PNG government about violations of human rights by the constabulary and by the defence forces.

Mr Goodwin—I would have to take that on notice but one of the points that we were making in drawing attention to PNG, and this applies in other areas, is the question of evaluation. We see that these things—

Senator HARRADINE—No, I did not ask you to take it on notice, that is the point. The evaluation by—

Mr Goodwin—The point is that if something is set in place, and this goes for any policy whether it is Australia-China bilateral dialogue or constructive engagement with Indonesia or whatever it is, there is a point at which the Australian community and organisations such as Amnesty will ask for the results. And given other ongoing patterns, other serious violations while certain programs are in place, they will ask what is the evaluation of that? Certainly, we would see that as a key step in improving future programs.

Senator HARRADINE—What you are really putting to our committee is that we can play a role in seeking that evaluation.

Mr Goodwin—Yes. What are the criteria for assessing whether these programs are achieving? What are they setting out to achieve? To what degree do they judge that they are achieving those? How will they be improved in future to prevent these sorts of violations from taking place. You can ask those sorts of questions.

Senator SYNON—You mentioned earlier in your submission that you feel there has been a trend to erode Australia's reputation and credibility over the last five or six years, and you mentioned a couple of instances. Do you have any reflections on why this might be the case, given that it is not a partisan issue.

Mr Isbister—Possibly one of the real reasons is that the emphasis that the Australian government has put on international multilateral fora has moved more into the economic stream and away from issues around human rights and social norms. I guess that probably reflects a bit of the larger debate about the effects of globalisation, and governments and the influence of business within that.

Some of the measuring sticks that have concerned us with regard to Australia's downgrading of its involvement in the multilateral fora are, as Tim mentioned, the commission for human rights, their unpreparedness to be able to really push on resolutions that may seem unpopular at the time through the commission, and also in terms of putting in the necessary resources for some of these multilateral fora, such as the commission for human rights, to achieve its mandate and its work. It is a large question you are asking, as to why that may be, and I think it is definitely not unique to Australia.

Senator SYNON—But there are other developed countries that, even within that context of globalisation, are upgrading their involvement and commitment to human rights

issues.

Mr Isbister—You are probably right. A lot of it has to be our involvement in the Asian region and the issue of constructive engagement not economic engagement. There is no doubt that a lot more emphasis, in terms of political will and economically, has been put into the economic multilateral fora.

Senator SYNON—I agree with you. I was wondering whether you had any hypothesis about why that has happened, what have been the factors, but it is probably not worth labouring on if they are not apparent. How do you feel that we could strengthen the human rights dialogue in the region? What are some positive initiatives within that context?

Mr Isbister—One of the areas that we are really looking at now is realising that increasingly, if you are going to be able to promote human rights within the Asia-Pacific region, you need to look more broadly than simply focusing on states. A large part of that has come into the issue of our work with the business community and the increasing influence that business has in this area.

There are really two areas that we are particularly interested in. One that we would really call on the Australian government to look at is the possible setting up of a tripartite working group, which would include NGOs, business and the government, to look into the setting up of some human rights guidelines or some sort of code of conduct that would include within it human rights principles. Something similar has been done already in the US. It is at the stage now where there are businesses who are prepared to look into this, who are concerned about what role they can play, there are many NGOs who would like to be able to move this to the next step, and the government could definitely play a role within that. I think it would be influential in the regional dialogue at least.

In terms of other areas of business, it is really for the Australian government to maybe support initiatives where businesses who are wanting to promote human rights in the region where they have operations or investments can be encouraged—again, through the example of Austrade and others.

Senator REYNOLDS—One of the ways that business could assist would be to encourage this exchange, especially between young people—and, indeed, not so young people—through internships. You mentioned scholarships earlier. But, where business is operating in a particular country, encouraging interns to work in human rights in that country is a very realistic way in which business can contribute.

Mr Isbister—You are right. And there are businesses who are genuinely interested in trying to look into some of these issues and opportunities.

Mr Goodwin—As well as the issues around human rights institutions and

ratification that I referred to earlier, the other role that the Australian government can examine is the human rights implications of what have been thought of as purely economic discussions. This also links in with 'this is just trade, it is not politics' and those sorts of arguments that we have heard in the past. Obviously, the current economic crises in countries such as Indonesia illustrate in many ways the sorts of points that we have been seeking to make for a number of years, that economic or trade issues cannot be quarantined from broader issues of stability or refugee rights or economic rights, but also civil and political rights.

The point is quite clear to us that the issues in Indonesia around accountability, rule of law, transparency of government and various distortions in the political process that allow for people to be gaoled for insulting the president are also the same sorts of distortions that are turning up, in form at least, on IMF agendas and regional agendas as well. So I think there is a recognition of the economic context and those issues of economic rights that also are not being addressed in many ways.

In a country like Indonesia the resentments and the problems that have been generated by uneven access to economic and cultural rights are also fuelling threats to civil and political rights that Amnesty members may well be writing on in the future. That also comes back to how the government approaches a forum like APEC, for example, where our Prime Minister was arguing in Vancouver at the end of last year that human rights and the social considerations around it were entirely peripheral to the agenda of APEC. That is a viewpoint that we would seek to challenge.

Senator SYNON—In the first submission this morning, one of the things that Chris Sidoti put to us in what was basically his wish list of four things, was development of models for interparliamentary dialogue. There are a number of institutions in some of these countries that are opening up dialogue on human rights issues. I wondered if one of the vehicles for facilitating that process might be parliamentary Amnesty International groups in other countries and whether you are aware of the strength or extent of parliamentary Amnesty groups in some of the countries we are talking about.

Mr Goodwin—The actual extent is something that Kirsten Hawke, our parliamentary liaison officer, is looking into at the moment. It definitely holds enormous potential. The strength of Amnesty's presence in the Australian parliamentary system is the envy of many Amnesty sections around the world. Certainly we see the potential that that has to develop that level of contact.

CHAIR—Going back to the emphasis that you are putting on business and the potential for NGO, business and government discussions and development of ideas in that regard, you say there are a number of businesses that are interested. Are you able to give us names of those businesses? You may not be able to, but I ask the question.

Mr Isbister—We would prefer not to give names. Having said that, they are

across the board, but especially resource based industries who have interests in the Asia-Pacific, consumer or retail industries who have operations throughout South-East Asia, and consultancies as well. It is diverse in terms of the groups we have been in dialogue with and who have shown interest, but it would probably be unfair or premature to name the particular ones.

Senator SYNON—You name a couple in your submission.

Mr Isbister—We name a couple but not necessarily in terms of them being interested or actively seeking this kind of initiative. It is more in their terms of involvement in the region and their human rights record.

CHAIR—The reason I ask is that, with a lot of the businesses I talk to in both the human rights and environmental fields, whilst they may be quite interested in the stability and transparency of the legal system and all the rest of it, they regularly advance the argument that if they get into good environmental or good human rights practices, all they are going to do is disadvantage themselves against businesses from other parts of the world who do not take the same high moral ground.

Mr Isbister—Probably the answer to that is that some of the companies with whom we have been in dialogue are basically realising that, in the present situation, they have to start showing some interest in this, they have to be able to be proactive and be prepared to hear what some of the concerns are. It is not so much out of their goodwill to be involved in this, but the recognition that if they are going to be able to gain wider public support these days, and if they are also going to be able to invest in particular countries in the region, they are going to have to be prepared to show or be able to show that they do have an interest in human rights protection and promotion within the region.

It is not necessarily that government has realised or decided that they have not been doing what they should have been in the last few decades and that they want to change that. I think a lot of it reflects what the global business community is looking at and where things are moving at that level than wanting to be part of that or needing to be part of that.

CHAIR—Some are changing for reasons of greed rather than because it is right.

Mr Isbister—Greedy in one sense but I think it is probably broader than that in that they want to be seen as a company of good practice, that recognises that human rights is good for business. There are the medium and longer-term benefits to flow from that. The recent situation in Indonesia really starts pointing some of that out. It has really hit at the very front in the greed sense.

CHAIR—Can you give us some examples?

Mr Isbister—You probably only need to look at the share prices of some of the mining companies that have interests in Indonesia at the moment to know that it is hurting.

CHAIR—How is changing their attitude on human rights going to affect their share price?

Mr Isbister—They think it is the recognition in the medium- to longer-term. If they can show the importance of promoting human rights in their region it gains support publicly and it also starts building a foundation or a structure in that locality or that country that helps in the longer-term. I do not think it is anything that is going to turn their share price around in months or—

CHAIR—Can you demonstrate that? Have you got any examples?

Mr Isbister—I think there are examples in the Philippines at the moment.

CHAIR—Can you obtain examples for us?

Mr Isbister—No, I would prefer not to give a specific example but there are broader examples. In Burma at the moment companies such as UNOCAL and TOTAL have pulled out because of their concern that their share price will be affected because of public concern. Pepsi-Co and others have also pulled out of that.

I think, internationally, there have definitely been examples where companies have realised that they are going to have to come to the party in recognising that protection of human rights and formation of human rights is essential to their long-term business interests.

Mr Goodwin—Aside from the consumer issue or the shareholder issue, there is another side to it that we are looking to explore with businesses. For example, the current economic turmoil in Indonesia is not doing business any good at all. We see links between those issues of accountability or corruption or human rights violations more broadly in that those things will be detrimental to their business interests, literally, in the short-term.

CHAIR—What I am trying to get on the public record is not the general nice statements, to put it crudely, but some hard evidence of where it is working or is not working and where there are some specific examples. That is going to be much more meaningful for this committee and its inquiry to make recommendations or draw conclusions.

Mr Goodwin—I think that challenge, in some ways, is one that we are wrangling with as well and that is why we are seeking to discuss these issues with business. The

universal declaration preamble calls on all organs of society to promote and protect these human rights. And we are throwing down the challenge in many ways to say to business, 'What is your role going to be as an organ of Australian society and of an international community?' I think government can play a role in a working group or a round table or some form of discussion to draw the various parties together from community sectors and business sectors to get this discussion going, and to send a message from that level that it cannot be avoided for practical issues of self-interest or for broader issues of principle.

Mr Isbister—If you want it for the public record speeches have recently been made on this issue by people such as Geoffrey Chandler, the former chief executive officer of Shell, about how oil companies, particularly, need to start taking responsibility for their records and what they do in other countries. Peter Sutherland, the chairman of BP, has come out very clearly talking about the role that business must play in the promotion of situations where they are investing. Companies such as Levi Strauss and Nike are now coming up with codes of conduct. That has come out due to public pressure. I think there is no doubt that, in the recent couple of years, companies are coming out with very clear comments—very clear statements—which are at times reflected in their own practices, in their human resources documents or codes of conduct. Times are changing and we need to be accountable for what our practices are.

CHAIR—I am conscious that time is moving on so I will wind up by saying that we may be able to take on notice your particular interest there. If you are able to come up with some further specific information in that area the committee would be appreciative.

Mr Isbister—Okay, no problems.

CHAIR—Unless there are any overwhelming questions, I thank you for your attendance here today. If there are any other matters which we might want additional information on, apart from what we have already talked about, the secretary will write to you. We will send you a transcript of your evidence, to which you can make corrections of grammar and fact. *Hansard* has a few queries about some of the details of what you have been talking about, spellings and so on. So if you could talk to them before you go, we would be grateful. Thank you very much indeed.

Proceedings suspended from 12.47 p.m. to 14.04 p.m.

FRANKOVITS, Mr Andre Georges, Executive Director, Human Rights Council of Australia, PO Box 841, Marrickville, New South Wales 2204

CHAIR—Welcome. The subcommittee prefers that all evidence be given in public but should you, at any stage, wish to give any evidence in private, you may ask to do so and the subcommittee will give consideration to your request. Although the subcommittee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the house itself. I now invite you to make an opening statement before we proceed to questions.

Mr Frankovits—Thank you, Mr Chairman. I will just make a few remarks for the record. It is most appropriate that this subcommittee is holding its inquiry into the regional dialogue on human rights at this time, since 1998 is the 50th anniversary of the Universal Declaration of Human Rights and it is also the fifth anniversary of the Vienna UN World Conference on Human Rights.

At the Vienna conference, governments undertook to review the progress made in the implementation of the Vienna Declaration and Program of Action after five years. To this end, the new High Commissioner for Human Rights, Mrs Mary Robinson, has instructed her office to organise a series of forums to address this issue throughout 1998, culminating on Human Rights Day at the end of the year. Therefore, the findings of your committee would make a considerable contribution to this review process.

Mrs Robinson has injected a note of urgency in her endeavours to fill her functions as the most senior human rights official in the UN system and has gone out of her way to stress that, in order to meet the challenges of globalisation, there is a need to address the right to development and the economic, social and cultural rights codified in the International Covenant on Economic, Social and Cultural Rights. She has also echoed the calls of the UN Secretary-General, Kofi Annan, for the integration of human rights across the UN system, including in the specialised agencies, and in the Bretton Woods institutions.

This integration is made even more critical by the recent financial meltdown in the Asian region. The fallout from the recent currency crisis has resulted in policies—encouraged, I should say, by the IMF and the World Bank—which will greatly affect a vast number of the population of our neighbours and will not only increase the growing gap between rich and poor but also significantly increase the number of the latter. The resulting instability has already seen popular unrest and accompanying repression by state security personnel in a number of countries. This unrest, of course, is not restricted to the countries most directly affected by the crisis. Economic restructuring in China, for example, has also led to protests and demonstrations by the newly unemployed and an increase in the abuse of their civil and political rights.

In response to this situation, we can expect a renewed insistence by some governments in the region that this is a necessary outcome of the priority placed by them on the realisation of economic and social rights. This claim is unsustainable for a number of reasons, not least because it denies the indivisibility of rights and the very nature of economic and social rights, and the Australian government could play a major role in assisting to counter this position through the human rights dialogue with its regional partners.

A precondition for this is to establish anew Australia's credentials for speaking authoritatively on human rights. As you may be aware, the Human Rights Committee has expressed publicly its concern at the numerous indications that Australia is ignoring or turning its back on its former commitments to the realisation of human rights, both domestically and internationally. One way of reaffirming this commitment is to review the progress made in the implementation within Australia of the Vienna Program of Action.

Indeed, at the Vienna conference, Australia proposed that countries draft national human rights action plans. Australia tabled its own action plan at the UN Commission on Human Rights in 1994, with yearly updates since that time. It seems that in the intervening period only two other countries, Brazil and the Philippines, have followed Australia's example. This is regrettable, since the drafting of such plans can serve to establish planning priorities in relation to the realisation of rights, including economic and social rights. It also assists in the process of holding governments accountable for the protection and fulfilment of all human rights.

We would like to see Australia playing a more active role in promoting human rights action plans in its dialogue with its regional partners. For this to have any credibility we must ensure that the promised five-yearly review of our own national action plan takes place and that it is achieved through a far more participatory process than was the case with the original 1994 plan. It certainly needs to be more participatory than is the case with Australia's overdue report to the UN Committee on Economic, Social and Cultural Rights, where the consultative process, as far as I understand it, is reduced to one afternoon in the Department of Foreign Affairs and Trade in Canberra, with no publicity, no representation from community groups, nor representation from the private sector.

A review such as I have proposed of the national action plan will parallel the High Commissioner for Human Rights's initiative to coordinate the 'five-year after Vienna' review, but it will also increase the expertise of Australian officials in the drafting of such plans with a view to assisting others in the region to do so. Such an exercise would benefit from a standing interdepartmental committee on human rights, similar to the one that was involved in drafting our original action plan.

I would like to turn briefly to Australia's aid program. The Human Rights Council of Australia has been involved for a number of years in international debates on the relationship between human rights and development assistance. We are aware of the

efforts made by AusAID to identify and fund a number of human rights related projects within its country programs. This is to be welcomed and encouraged. However, we are concerned that these efforts focus almost exclusively on civil and political rights and the legal and administrative structures that underpin them, while ignoring the realisation of economic, social and cultural rights. The realisation of these rights too must be addressed in any regional dialogue on human rights and must become an integral part of the aid program.

There are a number of benefits to be gained from a shift in focus towards economic and social rights. It would be in accordance with the newly adopted policy of the United Nations Development Program—the UNDP—on human rights and sustainable human development. It would support the efforts of the Office of the High Commissioner for Human Rights to promote the right to development and to assist it with the provision of technical services in the field. And it would be particularly timely in the context of the financial turmoil in the region, where the promotion, protection and realisation of economic, social and cultural rights has become of critical importance.

Let me conclude by expressing the hope that you will endorse at least some of the many recommendations made by individuals and organisations to you and your committee. All of them will require additional human resources and many will have budgetary implications. It is important that this committee consider the implications of this and that it puts the case strongly that the government's credibility on human rights depends more on actions than on words, and that actions are very seldom cost free. Thank you once again for the opportunity to address you on these matters. I am happy to answer any questions.

CHAIR—Thank you. Before I ask my colleagues if they have any questions, perhaps I could get the ball rolling. You will be aware that there has been some dialogue in the region and we are looking at regional human rights. Human rights is an issue that has obviously gained some ground and activity in terms of its exposure in the region. A number of countries have joined Australia as part of the Asia-Pacific forum and clearly it is an issue that is getting raised increasingly in bilateral dialogue and so on. It seems to me that one of the problems is one of education, of making governments and people at the grassroots understand what it is all about. Do you have a view on how that educative process can be enhanced?

Mr Frankovits—There are already some initiatives in place. It seems to me that the support that the government and the previous government have shown for institution building is a very important one in terms of education. The access to human rights institutions by the general public is one way that human rights education can be effected.

However, at the same time I would like to say that there is not really a lack of information about human rights in our region. As an example I would point to the pre-Vienna preparatory meeting in Bangkok in 1993 where something like 2,000 NGO

representatives came together from all around the region, ranging from West Asia to the Pacific, to put a view contrary to that of the governments of the time. That momentum is continuing and perhaps one of the ways that Australia can keep that momentum rolling is to up its profile in relation to human rights diplomacy.

It seems to me that there is also an opportunity for Australia to encourage exchanges between NGOs and community groups on human rights. I am mindful of the excellent initiative to assist NGOs from the Pacific region, for example, to go to the Vienna conference. There was some financial assistance so they could participate in that conference. Of course, that is a two-way process because their views could be heard and they could also pick up ideas from networking and liaising with other NGOs. Those kinds of things should be encouraged further.

Also of particular usefulness would be the higher presence in the region of the UN system. As an organisation we have recommended in the past that the UN Committee for Human Rights, for example, be encouraged to hold hearings in the region. That has not met with any approval as yet. We are still pushing on that, but those kinds of initiative where the operations of the human rights framework can be seen by the population, can be accessed by the population, would have a great educative effect.

CHAIR—Would you like to tell us your view of recent attempts to redefine what human rights is all about? I am thinking particularly of Dr Mahathir's attempt to look at the differing values in Asia compared with the rest of the world.

Mr Frankovits—Mr Chairman, I am sure you have a lot of submissions on this matter. We share with most organisations and individuals the view that the kinds of views put forward by Dr Mahathir and Mr Lee Kuan Yew are self-serving political ones. There are enough countering voices within the countries of those two gentlemen to demonstrate that that is not a shared view of human rights. When put to the test, of course, even they will allow that human rights are universal and indivisible.

The arguments that are put forward are not shared generally by the community. Unfortunately, in our view, there are too many people in the developed world, who ought to know better, who promote the views of Asian particularity for their own advantage as well. I have in mind, for example, people who will, particularly in the private sector, claim that there is some substance to the Mahathir position on human rights, which is again self-serving in terms of trade relations and so on. I would rather not go into the detail. Of course, we could have a philosophical discussion on this but I think that those positions have been discredited. There are enough experts, academic and legal, in the region who contest those views.

CHAIR—Thank you.

Mr HOLLIS—In your opening statement you went a little further than most of the

other people who have commented on the civil unrest that could be caused by the current economic crisis in Asia. In fact, I have asked the same question of most of the witnesses this morning. I asked, given the current situation there, whether they think that the crisis will enhance human rights or diminish human rights. They answered in a very general way. However, I noticed that you have gone on here to talk about the civil unrest. Would you care to expand on that a little bit and give us your prediction on what is going to happen? It is a tall order, I know, but in very general terms can you give us your reading of the human rights situation in Asia over the next couple of years?

Mr Frankovits—Let me take Indonesia, for example. A careful reading of the media, perhaps not the Australian media but the *Far Eastern Economic Review*, *Asiaweek* and other regional newspapers, indicates that in Indonesia there is already considerable unrest in terms of food riots. There are demonstrations of the unemployed in certain sectors. Calls for a more independent trade union movement are gathering pace. In the face of that the Indonesian authorities have only been able to react with a heavy hand.

It is increasingly recognised, even at the level of the Bretton Woods institution, the World Bank, that the effects of structural adjustment and the effects of the policies of the IMF that are imposed on some of these countries are having a massively negative impact on the poor, on the marginalised.

Senator HARRADINE—Despite what the president of the bank says?

Mr Frankovits—Yes. The president of the bank—

Senator HARRADINE—How do you square his statements with what is happening on the ground?

Mr Frankovits—I am a little more optimistic about the bank than many. Mr Wolfensohn has actually begun to refer to the need to provide a safety net for the outcomes of the policies that have been put in place in cooperation with the IMF. As recently as the Hong Kong meeting, he actually made a statement to that effect. There has been a shift in some of the utterances of the bank in relation to recognising that there are negatives in the immediate term. These are the things that I imagine, Mr Hollis, you are referring to.

Those negatives are really confronting the government of Indonesia, and of Korea, for example, where we have just recently heard that the trade union movement is not agreeing to some of the redundancies, expulsions and lockouts and so on that is asked of them, and to the lowering of wages. Therefore, there is quite likely to be a fairly strong reaction from the security forces, as there has been in the past, in relation to the trade union movement.

One of the things that we tried to highlight in this opening statement is that not

only is the gap widening between the poor and the rich, the elites in these countries, but also the middle classes are beginning to suffer quite directly. They do have some political force—not much, but a little bit—as witnessed by, for example, the alliance in Indonesia between the Islamic organisations and the party of Sukarno's daughter. That is a new development which could not have been foreseen a few months ago even, and I am sure it is quite clearly related to the instability of the economic situation.

I am afraid that my crystal ball is rather muddy, but I would say that there is going to be increased unrest and that this is going to create a problem for human rights lovers. But it also presents an opportunity, and that is something that you have to remember. In a situation like that governments are looking around for assistance; they are looking around for solutions to their difficulties. It seems to me that in a cooperative way our country, for example, is in a position—if it were willing—to assist in trying to find some of the solutions to the immediate problems facing human rights in these countries.

Senator SYNON—Mr Frankovits, thank you very much. In your written submission you talk about corporate leaders now recognising that human rights are good for business—and we had a discussion about this before we broke for lunch. I would be interested to know your views on how prevalent that is now. Is it just a very embryonic notion, or do you think that it is quickly gathering credence within the business community? Do you think this will seriously impact on the way governments—and perhaps especially ours—balance the notion of human rights and trade?

Mr Frankovits—Let me clarify one thing. When we refer to the link between trade and human rights, we are not necessarily of the view that there is a negative linkage. I would like to clarify that because, for many, linking requires stopping trade or preventing investment and so on, and that is not our view at the moment.

I have had discussions with a wide variety of human rights experts. My impression is that, certainly in the United States of America, the trend towards better ethical practices by the corporate sector, a questioning of some of the practices of multinational corporations and a trend towards voluntary codes of conduct, for example, are actually very positive. For example, there is an organisation based in California that holds conferences with heads of some of the major corporations to discuss the issue of human rights and the role that business can play in the promotion and the protection of human rights.

I think there is an embryonic movement afoot here as well. I am aware, for example, of a dialogue—and I am continuing the dialogue between some human rights NGOs and the corporate sector in Victoria—that really focuses on specific sectoral and thematic issues. Probably the one that is of greatest interest and import is the issue of child rights. Certainly, there are many organisations that are in fact addressing the problems brought about by child labour.

It seems to me also that the success, if I could say so, of the St James Ethics Centre here in Sydney is indicative of an interest in the corporate sector to look at better human rights practices, if you like. I do not think that there is an avalanche at the moment, but there certainly is an interest in the issue and I think there is a role for Australia to play in building on that momentum and in building on that interest. It is not coincidental that the business groups were represented so forcefully on the Council for Aboriginal Reconciliation, which is clearly a human rights related organisation, and that they did such sterling work in that organisation.

Senator SYNON—When you talk about the companies having an interest in doing their business ethically, how likely is that to actually impact on the ground with some of our Asian neighbours when they still have appalling conditions that under-aged children and adults work in—no fire escape, being locked in during the day so that they do not steal the cheap products they are making and that kind of thing? Are you actually seeing any of that translate to changed business practices on the ground, or is this a sort of notional ethical interest displayed in their own country to appease their Western shareholders?

CHAIR—Senator Synon, I could almost accuse you of being cynical.

Senator SYNON—Sorry.

Mr Frankovits—It depends on the region. For example, I am not sure whether you are familiar with the Rugmark initiative. It is basically a movement that started in the United States to label garments and carpets that were made free of child labour. That was a very simplistic response to our particular kind of human rights abuse and together with the UNICEF there have been initiatives to try and develop a more comprehensive approach to the use of children's labour.

For example, there are companies in Vietnam that have moved there because of the cheap labour. Some of these companies have inherited horrendous work practices, the types that you were describing. There has been a certain amount of militancy and advocacy amongst non-governmental organisations and companies themselves and it became quite clear very soon that to improve the working conditions actually improves productivity. There is a quid pro quo really. From our perspective as human rights activists, we try and bring the benefits of the improvement of these kinds of rights.

You asked about the lock-ins, for example, and the conditions of workers who are not allowed to leave their workplace. This has produced some absolutely horrendous tragedies in South China, for example, where people have been burned to death in locked factories. There, it is from the business community, really, that the impetus has come to try and overcome these things, not only because of lost productivity and all the kinds of problems that raises, but also because it interferes with markets. Consumer groups internationally highlight the kinds of abuses that occur and therefore this affects the

market. I think that it is a bit of both, really. I am not absolutely cynical that it is just an image building exercise. Rather, it is recognition that there are advantages in actually abiding by human rights standards.

Senator SYNON—You talk about business briefings on human rights. Are you currently conducting those?

Mr Frankovits—No, but we have proposed this on many occasions to the human rights section of the Department of Foreign Affairs and Trade, for example, and understandably there is a certain amount of sensitivity about those types of proposals. I know that Amnesty International conduct such briefings. They make themselves available to companies that are about to investigate opening markets in countries of the region, and that process ought to be encouraged. One way to encourage it is for the government to come out clearly in favour of these kinds of initiatives. In a great number of cases the businesses do not even know that there is a possibility of receiving such briefings, that they can impact on their activities. There are opportunities. We have recommended in the past that Austrade itself considers closer liaison with the international organisations branch of the Department of Foreign Affairs and Trade and so far, as I said, these recommendations have fallen on deaf ears. But, if this committee were prepared to make those kinds of recommendations, then maybe we might go forward a bit.

Senator SYNON—Thank you.

Senator REYNOLDS—I am sorry I missed the beginning of your presentation. I wanted to ask you a couple of questions about the Vienna program of action. I am aware, of course, of the original action plan, but have there been yearly updates since 1994?

Mr Frankovits—Of the Vienna action plan, or the Australian one?

Senator REYNOLDS—Of our action plan.

Mr Frankovits—Each year the Department of Foreign Affairs and Trade goes to the UN Commission on Human Rights with an update on the action plan. It is only a very slim document and, as far as I understand, it is not necessarily circulated very widely. In some sense that is a pity because the national action plan itself was in great demand when it was originally tabled. In fact, in my wanderings around the region, people still ask me for a copy from time to time. I know for a fact that at the UN there is a renewed interest in that document which is the model of its kind.

To clarify this, I would just like to add that as human rights NGOs we were not totally happy with the way that that original plan was put together. While understanding that it needed to be done very quickly, in a great number of cases—and this also applies to the updates—it just reflects government policy; it does not reflect government commitment.

Senator REYNOLDS—That was to be my next question. I have not seen any of these more recent action plans. The only action plan that I have seen is the Beijing action plan which is about four years out of date. It is an interesting historical document, saying what governments used to do, but it is not very useful in projecting a forward plan. That was my next question. To what extent do these action plans simply regurgitate past thoughts and initiatives without giving firm commitments for the coming 12 months?

I am reminded that even in the United States—and they have an appalling record in regard to ratification—there is a document giving commitments to the Beijing platform of action for the next 12 months. It might not seem very much, but at least you can measure what was the intention and you can make judgments accordingly. To what extent are these action plans projecting forward policy, and to what extent are they merely reinventing the wheel from the past?

Mr Frankovits—I am sorry to say that I think you are quite right: they are regurgitating what is current policy and what has happened in the past. I think though that that does not necessarily mean we should not go forward with their formulation. One of the criticisms of Australia's own 1994 national action plan was that it was actually quite revealing about the shortages and inadequacies. And, if you can actually analyse what is wrong with your own situation, that is a critical factor in the credibility of such plans. It was also very short on details on how those challenges were to be met.

That is certainly the case with the action plan on women, which we have been critical of for a number of years. Really, the only way we can suggest that that might be addressed is, as I mentioned, for there to be a standing interdepartmental committee. That is not sufficient in itself because without community input there is absolutely no way that the accountability and the coalface nature of the problems can be raised. So not only should there be an interdepartmental committee, but there should also be a process of genuine and extensive consultation with the community.

Senator REYNOLDS—So the general concept of an action plan was good, but it was not developed either in terms of working with other sectors, or in being strategic in giving commitments. It should be a bit like a budget.

Mr Frankovits—That is right.

Senator REYNOLDS—When you bring down the budget, you are saying that this is what is going to happen in the next 12 months, whereas these action plans are really repeating what has happened in the past.

Mr Frankovits—Let me make a comment that might interest you on that. The Office of the High Commissioner for Human Rights has actually got the responsibility of providing technical assistance in the formulation of national action plans; yet they have not been very effective in this for a number of reasons, including that they do not know

how to go about it. An interesting development recently—it only happened late last year—is that the Office of the High Commissioner for Human Rights has asked us to assist in helping them work out how best to promote the concept of national action plans and commitments.

Senator REYNOLDS—Who is responsible for implementing the Vienna program of action?

Mr Frankovits—At the national level?

Senator REYNOLDS—At the national level. In bureaucratic terms, who is supposed to be monitoring this? Is it in A-G's? Is it in DFAT?

Mr Frankovits—It is in DFAT, I think. The national action plan was originally drawn up by A-G's and DFAT; but, whilst A-G's has nominally got the responsibility for the domestic implementation of human rights, it is DFAT that has had most of the running on updating the national action plan.

Senator REYNOLDS—Are you aware that there is a serious change-over of staff in the human rights unit of DFAT? I have only heard whispers about it.

Mr Frankovits—The human rights section at the moment has only an acting director, although there has been an advertisement circulated. The Department of Foreign Affairs and Trade should be answering these questions.

Senator REYNOLDS—They have not put in their submission yet, I understand. They have not got anyone to write it, I understand.

Mr Frankovits—That is right. They are understaffed at the moment. There has been a turnover in the directorship since Bill Barker left. We had a director who lasted something less than one year. As I pointed out at a recent human rights training course for DFAT, it was only three years ago that human rights was a career move within the bureaucracy. Now it is back to the old days, and moving into human rights is a death-knell for your career.

Senator REYNOLDS—A bit like moving to the Status of Women.

Mr Frankovits—Exactly. Therefore, there is no battle to join that particular section, except from the young, and even they are fairly discouraged if they are at all career-oriented. I am sorry to say that this is the situation. It is not helped, for example, by the fact that there has been at one stage a plan to totally abolish the human rights training course for the Department of Foreign Affairs and Trade, a course which I thought initially was a huge step forward in trying to expose young bureaucrats as well as old bureaucrats to the international human rights framework. I am not quite sure of the status of that

training course now, because I understand that they have now rethought the proposal to abolish it and might consider reinstating it, although there is no-one at the moment who is contracted to do it.

Senator REYNOLDS—My last question is that part of the general concern in the human rights community, not just over certain things that have happened in the last few years—as I said earlier today, that covers present and previous governments—is the resourcing and staffing situation at the moment, particularly the current situation in the so-called human rights unit in Canberra. Are you aware that there has been a similar move to downgrade human rights in Geneva? Apparently, the ambassador has had human rights removed from his area of responsibility. Is that correct?

Mr Frankovits—Yes, that is what I understand. I do not know any details of this. I think this reflects what I referred to before: there is a considered withdrawal from the commitments to the promotion and protection of human rights by the government. This is to be deplored. It is particularly worrying in terms of a move away from multilateralism and towards bilateralism—not that they are mutually exclusive, of course, but it is absolutely critical that, in the human rights game, at least people work cooperatively and in concert with other like-minded people. The messages that we have got from such instances as the ones you have mentioned, but also from others, is that there is a withdrawal from that previous position.

At the UN it is particularly critical because there are moves afoot, by some of the governments that Mr Nugent mentioned, to reduce the effectiveness of the commission: for example, by introducing consensus resolutions, which would mean very serious obstacles to the working of the commission. Without strong support from those who are nominally or officially strong proponents of human rights, the UN system is somewhat under threat. I do not think it will grind to a halt, but it is a problem.

Senator HARRADINE—Mr Frankovits, in your letter to us, on page 1 you mentioned that ‘there is little understanding of economic and social rights in the developed world . . . and virtually none in the developing world.’ Would you like to expand on that?

Mr Frankovits—I would love to. The International Covenant on Economic, Social and Cultural Rights, together with the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights, represents the International Bill of Rights. In most people’s minds, human rights are equivalent to civil and political rights. When one discusses economic and social rights—including with, for example, our own donor agency or with those departments that are charged with promoting rights—economic rights are identified as being economic growth, and this is particularly the case in the countries of our region.

When we get the government of China speaking about economic rights needing to come before civil and political rights, what they mean of course is not looking after the

rights of those who are discriminated against in terms of their access to services—social security, health, education and so on—but rather how the gross national product can be increased. When we have discussions with people who are involved in the economic sphere, there is, as I say, a lack of understanding of the implications of economic, social and cultural rights.

What they actually mean is, I guess, the question. We get asked that quite frequently. There is an increasing body of evidence that actually tries to categorise the obligations of governments in relation to those sets of rights. The three categories normally mentioned are the obligation to respect human rights, the obligation to protect human rights and the obligation to fulfil human rights. The obligation to fulfil is particularly relevant to the call in the covenant for the progressive realisation of rights.

Many governments and many human rights people have interpreted the call for a progressive realisation as meaning that those human rights will happen in the never-never. What we have argued very strongly, together with many others, is that on the contrary the fulfilment or the progressive realisation of rights is a thing which can begin right now. It can begin right now through the formulation, for example, of government policies and priorities. Does the government address discrimination in work, education, health, language and so on? Does the government address the needs of the most marginalised and the poorest? After all, they are the ones whose rights are most clearly violated.

But also, in relation to respect and protection, one of the basic concepts about the obligation of governments to protect human rights is to ensure that non-state agents do not breach human rights, yes? This is quite clearly, in the economics sphere for example, not happening. It is the responsibility—indeed, the obligation—of governments to prevent factories burning down with workers in them, or the kinds of situations which lead to starvation, lack of education, malnutrition and so on, because of the policies of non-state actors.

What we try to do in our work is to actually bring home to people that there are quite clear policy implications about economic rights that are different from setting economic policy. It has been our experience—and it is not restricted to Australia, of course—that, for example, development agencies, the donors, do not have the information, knowledge and awareness of the jurisprudence that exists in relation to these rights. Is that helpful?

Senator HARRADINE—In your introductory remarks, you mentioned that you were aware of the efforts made by AusAID to identify and fund a number of human rights related projects within its country programs. You said that this was to be welcomed and encouraged; however, you were concerned that these efforts focused almost exclusively on civil and political rights and the legal and administrative structures that underpin them, while ignoring the realisation of economic, social and cultural rights. Could you elaborate on that? In practice, what are you recommending happens, given the limited amounts of

money that are available to AusAID for these purposes?

Mr Frankovits—Thank you very much for asking that question, because it comes to the very nub of what we have been working on over the last four or five years. We see that development assistance is a form of international cooperation which should actually have as its objective the realisation of rights. At the moment, many donor agencies see their role as being a kind of underhand, trade promotion branch of the government—and sometimes not even that underhand—and many donors in fact see their role even more politically as being part of the national interest in terms of influence-peddling in exchange for charity, if you like.

There is absolutely nothing wrong with promoting trade, in our view, and it should be quite clearly the responsibility of the trade promotion arm of the government. What we say is that development assistance has got a unique role to play in the realisation of rights. What do I mean by that? I would say that the first thing to be done is to establish quite clearly and publicly a policy to the effect that the objective of the aid program is the realisation of human rights—economic, social and cultural, as well as civil and political. That means that, in the policy dialogue and in the choice of programs that will be funded, the realisation of rights will have priority.

That means, for example, that in the field of education reference must be made to the covenant itself. What does the right to education entail? It is free primary education for all. Therefore, the analysis of the country which is the recipient of the assistance should be looking at what the situation is on the ground. Is there *de facto* free primary education for all? Are there obstacles for, let us say, minority groups, ethnic groups, women, or children of a particular social class to access to that free primary education? Free primary education is not simply that. It means: is there access in terms of travel? For example, in northern Thailand the minority tribes are so far away from schools that they would find it difficult to get there. That is in some sense in breach of the covenant in terms of providing free primary education.

That kind of approach to development assistance, by examining the content of the right, the obligation of governments in relation to the right, will then serve to establish the priorities and the programs of the development program. We have been involved in dialogue with a number of donors in Scandinavia and North America as well as here, and in some quarters there is already a beginning of understanding that there needs to be greater attention paid to these rights.

If you noticed, I referred to the new UNDP policy as very much focused on the entirety of the rights—not only the civil and political rights, but economic, social and cultural rights. They are also calling for their resident representatives around the place and their country representatives to try to identify those economic and social rights where they should be putting in their dollars, to put it crudely. That is different from the kinds of programs which just stimulate one section of the economic world in a particular

developing country and which then, some argue, will eventually lead to better conditions and therefore better respect and protection of rights.

CHAIR—I will ask just one more question, as time is marching on. When you make comments in your statement such as:

Australia is ignoring or turning its back on its former commitments to the realisation of human rights—

how much of that is actually based on quantifiable fact and how much of it is because of the fact that the current government has actually chosen to go about its human rights business in a different way to the somewhat established way of doing things for a number of years?

Mr Frankovits—I would like to say that it was the latter, but I am afraid I cannot because there are too many indicators. Back in August the council put out a release with a long list of indicators of why we felt that there was a change, an actual turning back. Domestically, for example, it seems to us that there is a consistent effort to try and dilute any agency or organisation that is charged with monitoring government implementation of rights, that is charged with holding the government accountable. I have in mind a whole range of things, for example, starving the legal aid institutions; the quite unfortunate, to our minds, attacks on the judiciary; the withholding of funds from the Human Rights and Equal Opportunity Commission; the—

CHAIR—If the government was only doing it in those areas—the withholding of funds—then I would probably agree with you. But, in fact, the government has looked to economise in its spending right across the spectrum.

Senator REYNOLDS—Except defence, Mr Chairman.

CHAIR—Except defence.

Mr Frankovits—Yes, that is absolutely correct. But the question then is: where principle? The amounts of money involved in human rights protections are minuscule when you compare them with the overall budget; they are tiny—a drop in the ocean. But to the institutions that are designed to safeguard and protect human rights, the kinds of cuts that have been put in place serve to render their activities incredibly difficult.

Whether you like it or not, the international human rights regime insists that governments have a responsibility to their citizens and therefore that the priorities ought to be for the protection of human rights. As I said, the amounts are so minuscule, and the size of the cuts is so large compared to the budgets of those institutions, that to argue that this is equivalent to the cuts across the whole board is to argue that the obligations are not

really worth while or that they are not really serious obligations.

In a sense, this harks back to the question that Senator Harradine asked. In terms of choosing which programs or which areas of a development program you will fund, you are obligated by the International Bill of Rights to choose to fund human rights. Those kinds of decisions also have to be put in place domestically. It seems to us that the decision has been made to treat this in a bureaucratic way, rather than in a principled way. The human rights monitoring institutions within Australia are facing tremendous problems because of very small amounts of cuts. To us, that is not equitable in terms of the protection of rights of the citizen.

CHAIR—So you are suggesting that the area should be immune from cuts?

Mr Frankovits—I am suggesting that it is not a question of treating these issues as if they are managerial issues.

CHAIR—Are you suggesting the government just needs to carry on exactly the same programs that were in place when it came to power and not look at things differently?

Mr Frankovits—No; I am certainly not suggesting that. We were quite critical of very many aspects of the program of the previous government as well. There is absolutely no reason why they should not be done in a different way. That is not what we are arguing. What we are arguing is that nothing else is being put in place, that what is being done is cutting—

CHAIR—That is just factually not true, is it? For example, the extra funding for the Asia-Pacific forum is additional funding.

Mr Frankovits—It is additional funding out of the aid budget—

CHAIR—If you look at new initiatives, the new human rights dialogue with China is a new initiative, and that is costing money. You make the statement, but is it not just that the government may be looking to do things differently? I am not making a judgment on whether I think the government is right or wrong. I am merely saying: have we not, as a country, perhaps got into a particular mental groove on human rights, where we regard any form of change as in itself wrong?

Mr Frankovits—I am not arguing that. We were actually quite pleased at the initiative to fund the secretariat for human rights institution. How much is involved in that?—\$100,000. How much is the overall aid budget?—\$1.2 billion. I do not think that in itself is an argument, because the previous government also had different priorities and put money into different initiatives. As far as the China dialogue is concerned, it was the

previous government—and I am not defending it, honestly, Mr Chairman—that sent two human rights delegations to China and sent one human rights delegation to Vietnam, which presumably cost approximately the same thing as the human rights dialogue.

I am not saying that things ought to be done the same way. On the contrary, I think there are all kinds of opportunities—and I hope that we have addressed some of those opportunities—for doing things in a new way.

I would be more than happy to provide you with the details of what we claim are indicators, which run to about three pages, of all kinds of things that send a message, certainly internationally. We can throw in the race debate. We can throw in the framework agreement with the European Union. We can throw in the position with the UN Commission on Human Rights. We can throw in the reluctance of the Minister for Foreign Affairs to come to the Ottawa landmines agreement, although we congratulated him later for his change of mind. All these things individually mean not that much, but when put together in one hit, in one block, unfortunately it indicates that human rights is not a priority.

CHAIR—When the previous government took exactly the same stance as the current government on the EU trade and human rights issue, I did not hear the Human Rights Council of Australia criticise it.

Mr Frankovits—We did, Mr Chairman.

CHAIR—That's fine. If you can give us some information on that, we would be grateful.

Mr Frankovits—Sure. We criticised it over that matter, and we also criticised it over other matters, for example, for its stand on the Teoh bill. We very strongly criticised the former government. We also were quite vocal in suggesting that towards the end of his term the foreign minister's commitment to human rights was not nearly as obvious as it was in the early part of his term. We were not reluctant to put that criticism on the table.

But that said, it seems to us that it is important within the framework of your inquiry that you pay attention to that international perception. It will go to undermine Australia's human rights diplomacy when people perceive—you say it is a wrong perception, but the perception exists—that human rights is no longer a great priority issue for—

CHAIR—You have offered us three pages, or whatever. When you give us that subsequent information, can you substantiate your claim of where the government has gone wrong? Can you provide some evidence of where that perception is in the international community?

Mr Frankovits—Yes, we can do that.

CHAIR—That would be important. Did you want to buy into this, Senator Reynolds?

Senator REYNOLDS—I wanted to ask a question, of course.

CHAIR—Please do. Time is getting on, so after that we will wind up this section.

Senator REYNOLDS—My question is in the spirit of tripartisanship. Governments come and governments go and we criticise them for a whole variety of reasons, but Australia, regardless of who is in power, has certain obligations. I have heard it said—not by the minister, not by anyone who is well informed—that we do not have to worry about this or this. That might be your government saying that, just as my government might have said, ‘We will not worry about these priorities.’

Is it not true that the reality is that it is not governments that give commitments, it is the country that is bound, regardless? Once that country is bound, unless you are going to deratify the Convention on the Elimination of All Forms of Discrimination Against Women, you have to comply with it. That is the human rights education message we have got to get through, not just to the community but to certain people within parliament.

Mr Frankovits—Yes, I think that is absolutely true. It is absolutely critical that there is a recognition that these instruments are not just aspirational, and that they have the force of international law. In our country we are fortunate that some of those have been translated into domestic law and that there is a process by which we can actually appeal when that law is not kept. There are other instruments which have not been translated into domestic law, and that is the major difficulty. You are absolutely right in saying that our challenge is to get people to understand that this is a legal obligation as well as an ethical obligation.

Senator REYNOLDS—Thank you.

Mr Frankovits—Could I add one other thing?

CHAIR—Yes, please do.

Mr Frankovits—I would like to take the opportunity of saying that we as people who are concerned with human rights have watched the debates in the Senate and in the House on the most important human rights issue to do with Aboriginal native title. We would like to encourage you to keep on standing firm against initiatives which will affect negatively the human rights of Aboriginal people in Australia. That will be a signal to our regional neighbours that our commitment to human rights is a genuine one.

CHAIR—I have certainly put my position on the record in the debate, and I am sure others will have done the same.

Thank you very much for coming this afternoon. We look forward to those three pages, or whatever it is. If there are any other matters we think of where we want additional information, our secretary will write to you. We will send you a transcript of the evidence so that you can make any corrections to grammar or fact.

Mr Frankovits—Thank you very much.

[3.15 p.m.]

CORPUZ-BROCK, Ms Jane, Director, Diplomacy Training Program, Faculty of Law, University of New South Wales, Sydney, New South Wales 2052

PRITCHARD, Dr Sarah, Director, Australian Human Rights Program, Faculty of Law, University of New South Wales, Sydney, New South Wales 2052

CHAIR—On behalf of the subcommittee, I welcome representatives from the diplomacy training program. Thank you for coming this afternoon. What I propose to do is to go through your evidence and then conclude the formal hearing for the day of the committee, and then I understand a couple of your students are going to give some brief briefings which we will do outside of the formal context.

The subcommittee prefers that all evidence be given in public but, should you at any stage wish to give any evidence in private, you may ask to do so and the subcommittee will give consideration to your request. Do you have any comments to make on the capacity in which you appear?

Dr Pritchard—I am also a member of the board of directors of the diplomacy training program and a faculty adviser to the DTP.

CHAIR—Although the committee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the House itself.

I now invite you to make an opening statement and then we will move to questions.

Dr Pritchard—Thank you for the opportunity to address the subcommittee on behalf of the Australian Human Rights Centre and the diplomacy training program. Allow me briefly to address one aspect of your terms of reference. That is the current debate on the interpretation of human rights in the region. To a considerable extent this aspect of your terms of reference overlaps with the question of the place of human rights in the relations between Australia and our regional neighbours.

It is our submission that there is not, amongst governments of the region, a single view of human rights nor that such of you is implacably opposed to the traditions of individual human rights first developed in the west—that is, the invocation of arguments about Asian values is not monolithic. We refer you, for example, to a speech given by the Deputy Prime Minister of Malaysia, Mr Anwar Ibrahim, to which we refer in our written submission. We notice well the real commitment to the universality of human rights expressed in the 1991 white paper on human rights in China.

Within the region many non-governmental voices, human rights and development NGOs, professional groups and academics argue that it is inaccurate and ahistorical to posit distinct Asian and western notions of human rights. These voices refer to the reliance by regimes and elites on arguments about Asian values to legitimise exploitation and oppression. We refer you in particular to the 1993 Bangkok NGO declaration on human rights, the 1996 Sydney statement of Asia-Pacific human rights educators on the right to human rights education and, most recently, the Asian charter on human rights adopted at the end of last year.

CHAIR—Before you go on, would you like to give those to us.

Dr Pritchard—Certainly. In our submission, most of the regional debate about human rights is not so much disagreement about the norms themselves but, rather, about their implementation. In order to create common understanding, the regional dialogue on human rights must engage differences and demonstrate openness to the diversity of cultural and contextual realities which condition customs and practices in different societies. What then, briefly, are the implications of this for Australia's relations within the region?

First, we reject the view that human rights must not be allowed to jeopardise Australia's share in the region's economic future. Thus, human rights must figure not only in Australian foreign policy but also in multilateral discussion within the region such as within APEC. Trade without human rights is an unbalanced agenda.

It is our submission that Australia's interests are best served where Australian policy is perceived to reflect the values of Australian society, as Alexander Downer has stated. While human rights remain at risk our own values are compromised. Moreover, Australia must strive to maximise consistency in relation to human rights in its foreign policy. Human rights policy must be pursued on a non-discriminatory, non-selective basis. Neither must Australia disregard its own record. A pre-condition to any serious cross-cultural dialogue is criticism of one's own policies and practices as well as a serious investment in national human rights capacities and infrastructure.

Finally, to facilitate the human rights dialogue in the region, we submit that a significant proportion of development assistance funds must be earmarked for programs concerning human rights, including in particular human rights education activities.

CHAIR—Before we proceed, we will accept your documents 'Bangkok NGO Declaration on Human Rights' of 27 March 1993; 'Workshop on Asia-Pacific Human Rights Education: The Right to Human Rights Education' of 25 August 1996; and 'Common Humanity: The Asian Charter on Human Rights' from *Human Rights Solidarity*, an HRC newsletter, volume 13, February 1997.

Resolved (on motion by **Senator Synon**, seconded by **Senator Harradine**):

That the documents be incorporated in the records of the Human Rights Subcommittee as an exhibit to the inquiry into the regional dialogue on human rights.

Ms Corpuz-Brock—Mr Chairperson and honourable members of this subcommittee, we want to thank you and to express our appreciation for your having considered our submission and having allowed us to stand witness to this public hearing.

I emphasise what Sarah said a while ago: that it is with great urgency that we wish to bring forward a sentiment among non-government organisations in the region. This is particularly with the aspiration of being able to undertake human rights education at all levels—local, national and regional—and for all sectors, especially women, peasants, young people and indigenous people. In this light, DTP proposes to recommend to the proper Australian body or government service unit that human rights education be integrated in all community projects that they support abroad and also here in Australia.

I particularly want to cite an experience I personally had in the Philippines where the former AIDAB had given us a grant for a socioeconomic project. We were able to negotiate that a portion of that project be used for human rights education of the particular community where we served, and that was granted. That is exactly what we mean when we say that in every community project that Australia will be supporting, whether in Australia or abroad, we should ensure that there is a human rights education component. Thank you.

CHAIR—I must admit I am personally not particularly familiar with your organisation, so I wonder if you could tell us briefly about your organisation?

Ms Corpuz-Brock—The Diplomacy Training Program was founded through the initiative of Jose Ramos Horta and a group of academicians and human rights activists in the Asia-Pacific region. The University of New South Wales, in particular the Faculty of Law, has graciously offered for the program to be affiliated within the university. Since 1990 and up until now, we are having training. We have trained over 400 human rights activists in the Asia-Pacific region, and some of them have come from the Middle East and Europe.

Basically, the content of the training is on international human rights law, international human rights standards and mechanisms and skills on how to lobby and negotiate and be able to use these skills in their campaign and also in the hope that policy changes will be made for the advancement of their cause.

CHAIR—In carrying out that task, presumably your organisation has picked up a fair amount of knowledge about the state of human rights in the region—and of course this inquiry is looking at human rights in the region. Do you or your organisation have a view or a judgment on whether things are improving or going backwards in some areas and improving in other countries and what the key issues are that are coming out? In other

words, do you have a scoreboard?

Ms Corpuz-Brock—Yes, we do, in terms of receiving statistics and analysis from our partners and from those who undertake human rights education and training in the region. Of course, we receive e-mails regularly from our partners on how they work within certain situations using their skills.

With regard to human rights violations, I will take a concrete case. For example, there has always been a view that the human rights situation in the Philippines improved after the ousting of President Marcos, the former president. But most of the human rights workers in the Philippines, on the other hand, have been looking into deeper ways of looking at statistics. Indeed, in numbers, one could say that political detainees may have decreased, but the manner in which the military and the government have been stationed in various communities has greater impact on the livelihood of people, to the extent that it is difficult for a particular community to undertake a regular livelihood. For example, in farming, there have been cases where the military really have lived within the community itself and have practically made the community a slave to the needs of the military.

CHAIR—It has not really improved: is that what you are saying?

Ms Corpuz-Brock—Yes.

CHAIR—In spite of the general perception. Senator Reynolds.

Senator REYNOLDS—I am aware of some of the work of the human rights education centre, but I am interested in your assessment of how much human rights education is going on in Australia after two years of the decade of human rights education?

Dr Pritchard—My assessment is that the state of human rights education in Australia is somewhat parlous. The UN decade for human rights education is now midway through its decade. Australia is yet to elaborate a national action plan for human rights education. The UN has now issued guidelines for national plans of action for human rights education. These were adopted by the General Assembly on 20 October 1997. Many countries report regularly to the UN about the elaboration of human rights education programs. Most recently, at the General Assembly, information was received from the governments of Algeria, Argentina, Chad, Croatia, Denmark, France, The Holy See, Italy, Japan, Norway, the Philippines, the Sudan, Tunisia, Ukraine, Austria, the Republic of Cyprus, Ghana, Japan, the Republic of Korea, Malta, Romania and Uzbekistan. Sadly, Australia was not amongst the member states of the UN who felt some obligation to report to the UN on human rights education activities.

Senator REYNOLDS—Have you any idea why this situation has developed? Is it a case of it should be in DEETYA, but DFAT says no and that they will do it? Is it just a

breakdown in communications? Why hasn't something happened?

Dr Pritchard—It appears that the standard response is that there are insufficient funds at the moment for catalysing such a program. DFAT has attempted to organise several meetings of NGOs within Australia to catalyse some developments in this respect, but these have yet to bear any fruit. The Human Rights Commission has agreed to convene on Thursday of this week, here in Sydney, a meeting of interested parties to consider how we might advance the development of a national action plan. But we believe that, unless there is a commitment on the part of the Australian government to human rights education, these efforts are likely to amount to very little.

Our human rights centre has produced a series of publications to commemorate the UN decade—several guides to the UN human rights procedures. We have projects in collaboration with the Law Society of New South Wales, the International Bar Association's Human Rights Institute and others, so we are able to generate some modest funds for our human rights education activities, but these have all been from non-governmental and offshore sources, to date.

Senator REYNOLDS—What about state education departments, or private or Catholic schools? Are there any initiatives going on, despite the failure of governments in this regard? Are individual teachers taking it up, for example? Or, without leadership, is there just a vacuum?

Dr Pritchard—The New South Wales Department of Education has shown some interest in some of the work that the Human Rights Centre is doing. We have been developing a human rights educators and students kit. We are engaged in preliminary discussions with them as to how we might publish these materials.

Senator REYNOLDS—Are you not aware of anything else in the country?

Dr Pritchard—No.

Senator SYNON—Following on from the chairman's questions regarding the diplomacy training program, could you tell me how you are funded, how you recruit people, and from what area you are recruiting students into the program?

Ms Corpuz-Brock—We have a set requirement for selection. Firstly, the person should belong to an organisation and they should state the experience they have in human rights work and ensure that they will use the skills when they go back to their organisation. In the standard procedure of an organisation, the organisation has a hand in selecting whom it wants to apply. In many cases, that has been the procedure with most of the applications we have received from organisations.

When the DTP has received all the applications, we look first to see that there is a

gender balance and then we look through the kind of work that they do. We have a particular priority for those working with women's issues and those in the field of human rights training themselves. In various organisations, they have a particular focus, such as campaigning or human rights education. We have a preference, of course, for those who will be doing training and educating the community on human rights.

After that, of course, we inform them that we have submitted their names to our funding partners for consideration. In a lot of cases it is our funding partners who select among the list. In a way, we do not really have a free hand in selecting who the participants will be. The sources of funding are the ones who decide. Actually, that is a very difficult situation for us in a lot of cases. For example, in this training course we have two participants from the Thai-Burma border and we have sponsorship for them, but they cannot come, because the Australian Embassy in Bangkok has not granted a visa to them.

CHAIR—You do not have to tell us the names, but are the sponsors NGOs, business organisations or academic institutions?

Ms Corpuz-Brock—Yes. They are non-government organisations and also government organisations. In the case of some of our participants, they receive funding from the Embassy of Norway and the Embassy of The Netherlands as well.

Dr Pritchard—And the Dutch and the Norwegian development assistance agencies, and the Canadian agency in previous years, as well.

Senator SYNON—And the duration of the training program?

Ms Corpuz-Brock—Four weeks.

Senator REYNOLDS—Is there support from AusAID?

Ms Corpuz-Brock—Yes. They have promised to give support to two of our participants, but we have not received it yet.

Dr Pritchard—This is the first year that AusAID has supported participation in the program.

Senator SYNON—Are there other similar programs on the ground in other countries?

Ms Corpuz-Brock—Yes; one in Costa Rica, one in Canada, one in Norway and—

Dr Pritchard—In Geneva, in particular.

Ms Corpuz-Brock—Yes, Geneva, and in France.

Senator SYNON—How would a community group in a small remote village find out about the diplomacy training program in Sydney? What is the mechanism?

Ms Corpuz-Brock—Through the years we have built a network of partners among the participants who have done the training before and we send them bulletins. Through the human rights defenders bulletin we publish the activities of the DTP and we send application forms to them.

Senator SYNON—That is very interesting. Thank you. I have one question specifically on the submission itself. On page 6 of your submission you say:

It is our submission that most of the disagreement is over the implementation of human rights, rather than the norms themselves.

That is something, Dr Pritchard, that you referred to in your opening comments. Could you expand a little on that for the committee and perhaps give some insights into the kind of dialogue and discussion that is happening over that implementation issue?

Dr Pritchard—In relation to the first aspect of that, it is our submission that it is no longer tenable to deny the universality of human rights. The universality of human rights has been reaffirmed repeatedly at various international meetings, most importantly by consensus at the Vienna World Conference on Human Rights in 1993. There is an increasing pattern of ratification of UN human rights instruments and participation in UN human rights treaties. For example, the Convention on the Rights of the Child has now been ratified by 194 states, including all of those within the region with the exception of Oman. So we do not believe that the argument is so much about the universality of human rights.

When one looks closely at human rights policy articulated by governments within the region one will find a very clear affirmation of universality in the Chinese white paper. For example, where the differences emerge is when it comes to considering whether the implementation of human rights, respect of human rights, is a matter of international concern or not. That is where the differences arise: the implications of international obligations for national implementation.

In this respect as well one can point to some modest, albeit encouraging, developments: for example, the development of a regional human rights dialogue through the meetings of regional national human rights institutions, through the UN sponsored meetings on Asia-Pacific regional human rights arrangements. It is in these fora that questions about appropriate domestic implementation of human rights standards in the Asia-Pacific region are being discussed. Concepts such as an evolutionary model, a step-by-step approach to human rights implementation in the region, are part of the discourse.

Senator SYNON—Are you seeing any convergence of views on the implementation in the Asia-Pacific region?

Dr Pritchard—One sees increasing recognition that human rights are part of the regional agenda. They get raised from time to time at ASEAN. Many NGOs would like, of course, to see human rights being raised at APEC. At the UN, the General Assembly and the Commission on Human Rights adopt regular resolutions on regional human rights arrangements.

There is a meeting in Teheran at present on regional human rights arrangements. The Special Adviser to the UN Commissioner for Human Rights, Clarence Dias, who was in Sydney last week and who is one of the resource people at our program, is reporting to that meeting of some encouraging developments. I will quote from what Clarence Dias will say tomorrow to the meeting—this is embargoed, but the report of this committee hearing will be published after he has given his address:

Human rights are assuming increasing and new significance in the region. Decisions made outside the region, especially by multinational corporations operating under a new regime of privatized, deregulated, promotion of trade and investment are causing profound negative human rights impacts in several of the countries of the region . . . The recent environmental crisis in Indonesia produced, within the region, refreshingly enough, not recriminations but strong responses of regional cooperation. The current crises of several Asian economies is also providing a new impetus for regional cooperation. In both these crises, human rights can help contain conditionalities, interventions and unilateral coercive actions emanating from outside the region. A truly human rights arrangement is an idea whose idea has clearly come.

That perhaps qualifies Jane's earlier suggestion that all developments are in the negative direction.

Senator HARRADINE—What relationship and cooperation does your organisation have with other organisations, including, for example, the Asia-Pacific Forum on National Human Rights Institutions for which the secretariat is in HREOC?

Dr Pritchard—At present we have no formal relations at all, but we follow their work very closely and we collaborated with the Australian Human Rights and Equal Opportunity Commission in relation to a number of projects in recent years, particularly in relation to the workshop of regional human rights educators, the statement of which we tabled earlier.

Senator HARRADINE—On the question of whether or not it would be desirable to have an Asian human rights declaration, there is a considerable number of people within the human rights movement who fear that that might not be conducive to adherence to the Universal Declaration of Human Rights and the two other conventions. What is your view about that?

Ms Corpuz-Brock—It would really be very difficult for countries, especially countries like Malaysia, to consider that, especially if they put forward a view of the Asian values as being more important than the universality of human rights. But in the African region, for example, they have their own African charter and they have a regional arrangement as well.

I have not worked with organisations in Africa but, based on what I have read and heard from human rights activists from Africa, having regional arrangements like this would help a lot of non-government organisations, especially those who are persecuted and who are proposing a new social order that would really ensure the human rights of marginalised sectors of their society. There will be a forum for them. If governments cannot offer them any forum, then there should be another way of going around it and being able to have other governments and peoples in the region listen to what is happening to them, and of being able to get some support and, hopefully, some change from this kind of forum.

Senator HARRADINE—There are human rights institutions in a whole number of countries in the Asia-Pacific region. You may have misunderstood what I was asking. There is a feeling amongst some people that an Asian human rights charter may include a diminution of the provisions of the Universal Declaration of Human Rights, the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights. Is that a view that is widespread, that the charter might undermine to some extent—

CHAIR—The point Senator Harradine is trying to make is that if you have an Asian regional agreement, statement, or whatever you want to call it, then because of the views expressed by some particular countries on human rights issues which would not be of a standard that we might subscribe to, the lowest common dominator would have to apply to get an agreement. Therefore, it would set a generally lower standard than the internationally accepted standard and actually not serve the region particularly well. Would you agree?

Senator HARRADINE—That is just what I wanted to ask.

CHAIR—Is that right?

Senator HARRADINE—Yes, that is exactly what I wanted to ask.

Dr Pritchard—It would be the submission of the human rights centre that the participation by Australia in any regional discussion about regional human rights standard setting has to have as a precondition no dilution of existing human rights standards. Those standards are clearly articulated in the Universal Declaration of Human Rights. The declaration provides a corpus of customary international law already binding upon all regional governments.

At the same time we recognise the need for a very context specific, contextual approach, to regional discussion about human rights. We recognise, for example, that in the Convention on the Rights of the Child, there is enormous appreciation of cultural diversity and contextual political, religious and philosophical differences. That, to a large extent, accounts for the virtual universal ratification of that instrument. In many of its provisions it refers to different cultural and religious practices.

Senator HARRADINE—All of us in this room, some far more than others, have been or will be seriously affected by the economic downturn in many of the Asian countries. How will this impact on human rights in those countries?

Ms Corpuz-Brock—In the case of the Philippines, for example, a lot of NGOs are foreseeing a scenario that there could be chaos and riots. Governments would not really be interested in putting money into human rights education. That is for sure. The Philippines people's movements, especially the ones that are undertaking human rights education, see themselves as a catalyst for uniting the people instead of adding to the chaos. This is the time to be looking inward and looking at the strength of the people's organisation. They must be able to get their acts together and come up with alternatives for feeding the people and come up with alternative socioeconomic projects and be able to withstand whatever economic repercussions they will be facing.

We are really feeling it. My own family says that the income that they have is not enough to really put themselves together in one piece for a week. My sisters and brothers-in-law have to work more hours than they used to work before.

Dr Pritchard—Of course, many human rights observers are predicting, and seeing already, the forcible expulsion of foreign workers and increasing violations of international labour standards.

CHAIR—Before we move on to getting an informal briefing from a couple of your students, we might go through the formalities of the official part of the hearing and then we will move on to the informal part. For the benefit of the committee, that will not take too long. Formally, let me thank you for coming here today. If there are any matters on which we might need additional information, the secretary will write to you. You will be sent a copy of the transcript of your evidence to which you can make corrections to grammar and fact.

I will adjourn the formal hearing until 5 February 1998.

Resolved (on motion by **Senator Synon**, seconded by **Mr Hollis**):

That the subcommittee authorises publication of the evidence given before it at the public hearing this day.

Subcommittee adjourned at 3.51 p.m.