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JOINT STANDING COMMITTEE ON FOREIGN AFFAIRS,  
DEFENCE AND TRADE

HUMAN RIGHTS SUBCOMMITTEE

**Reference: Human rights and good governance education in the Asia Pacific region**

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## JOINT COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE

### Human Rights Subcommittee

Monday, 12 May 2003

**Members:** Senator Ferguson (*Chair*), Mr Brereton (*Deputy Chair*), Senators Bolkus, Cook, Eggleston, Chris Evans, Harradine, Hutchins, Johnston, Sandy Macdonald, O'Brien, Payne and Stott Despoja and Mr Baird, Mr Baldwin, Mr Beazley, Mr Bevis, Mr Byrne, Mr Edwards, Mr Laurie Ferguson, Mrs Gash, Mr Hawker, Mr Jull, Mr Lindsay, Mrs Moylan, Mr Nairn, Mr Price, Mr Prosser, Mr Scott, Mr Snowdon, Mr Somlyay and Mr Cameron Thompson

**Subcommittee members:** Senator Payne (*Chair*), Senator Bolkus (*Deputy Chair*) Senators Ferguson (*ex-officio*), Harradine and Stott Despoja and Mr Baird, Mr Brereton, Mr Laurie Ferguson, Mr Lindsay, Mrs Moylan, Mr Price, Mr Somlyay and Mr Cameron Thompson

**Senators and members in attendance:** Senators Bolkus, Ferguson, Harradine, Payne and Stott Despoja and Mr Baird, Mr Laurie Ferguson and Mr Price

#### Terms of reference for the inquiry:

To inquire into and report on:

- the role of human rights and good governance education in the promotion of fair and sustainable social, political and economic development;
- Australia's involvement in human rights and good governance education in the Asia Pacific region identifying achievements and obstacles to further progress;
- the involvement of the UN and other international and regional government and non-government organisations in promoting human rights education and good governance in the Asia Pacific region; and
- progress made in the Asia Pacific region towards the realisation of the goals of the United Nations Decade for Human Rights Education

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**Subcommittee met at 9.31 a.m.**

**DAVIES, Mr Robin, Assistant Director-General, East Asia Branch, AusAID**

**MOORE, Mr Richard, Assistant Director-General, Mekong, South Asia, Middle East and Africa Branch, AusAID**

**THOMAS, Ms Margaret, Acting Deputy Director-General, Pacific, Contracts and Corporate Policy Division, AusAID**

**VERSEGI, Mr Peter Lloyd, Acting Assistant Director-General, Corporate Policy Branch, AusAID**

**McGUIRE, Mr Gerard Francis, Director, Human Rights and Indigenous Issues Section, International Organisations Branch, International Organisations and Legal Division, Department of Foreign Affairs and Trade**

**MOULES, Ms Bronte Nadine, Assistant Secretary, International Organisations Branch, Department of Foreign Affairs and Trade**

**CHAIR**—Welcome. I declare open this inquiry by the Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade into human rights and good governance education in the Asia-Pacific region. This is the second public hearing of the subcommittee's inquiry. We are rapidly nearing the end of the UN Decade for Human Rights Education, and Australia, as arguably one of the world's most successful democracies, is in a very good position to make—and indeed does already make—a strong contribution to human rights and good governance education in the Asia-Pacific region. All of the witnesses appearing today are intimately involved in the promotion of human rights and good governance in the Asia-Pacific region and play an important role in human rights education.

The committee intends to conduct today's proceedings in public, although should you wish at any stage to give any evidence in private, you may ask to do so and the committee will consider your request. Although the committee does not require you to give evidence on oath, I remind you that these hearings are legal proceedings of the parliament and therefore warrant the same respect as the proceedings of the chambers. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. I invite you to make some opening remarks before we proceed to questions.

**Ms Thomas**—I will not really go over the details in our submission, but this is a useful opportunity to update the committee on a few issues that have taken place since we made our submission in November 2002. In December last year, AusAID conducted a workshop with NGOs on practical approaches to human rights. The workshop was organised in response to findings from the 2001 inquiry into the link between aid and human rights. We found the exchange of views and the experience working with NGOs in that very useful and interesting. We have also just participated in the annual meeting of the Commission on Human Rights—CHR 59. Australia provided a practical guiding role in its position as vice-chair. We were successful in CHR in securing a record number of co-sponsors to our key thematic resolutions

on good governance and national human rights institutions, and these were adopted by consensus.

The CHR also considered the UN Decade for Human Rights Education and agreed that the office of the high commissioner, jointly with UNESCO, should prepare a report on the achievements and shortcomings of the decade to present at CHR 60. We consider it premature to consider a second decade until this review has been completed. The minister, Mr Downer, also recently approved the 2002-03 round of the Human Rights Small Grants Scheme. This provides funding for a range of small projects. Some of those which were funded included human rights education in Fiji, a community level human rights program in Pakistan and human rights monitoring and information dissemination in the development of the East Timorese justice system. That concludes our opening remarks and we are happy to answer questions.

**CHAIR**—Thank you very much for that update and also for AusAID's very comprehensive submission, which is very helpful to the inquiry. We have received close to 30 submissions from people who have a very fine interest in the issues that we are discussing; you can imagine that they raise significant points of detail at a number of levels. I was very pleased to hear you mention the December workshop which you said followed on from this subcommittee's previous inquiry on the link between aid and human rights. It is always nice for the subcommittee to see some action coming out of its activities, for a start. You have referred to a review being done of the utility and shortcomings of this decade; what do you think is the timing on that?

**Ms Thomas**—I might ask my colleague from DFAT to answer that.

**Ms Moules**—The report commissioned in the resolution that was just adopted at the last session is to be submitted at CHR 60, which is in March/April next year. The Office of the High Commissioner for Human Rights, in coordination with UNESCO, will be beginning work as of about now. We anticipate getting more information on that and possibly some advice or a specific request for information, possibly a questionnaire or that sort of thing, in the near future.

**CHAIR**—Would they normally ask for submissions to be made to such a review, or is it something that they do essentially of their own volition and their own process?

**Ms Moules**—It is not entirely clear what sort of process they will adopt, but it is quite likely that in some form they will invite members of CHR and of the broader UN membership to submit views. I understand that for the midterm review they sent out questionnaires to a subgroup; it did not go to the entire UN membership. For this review they might try to do something more comprehensive but, in some form or another, we would anticipate there being some opportunity to submit views.

**CHAIR**—Perhaps we could burden them with this committee's report in due course.

**Senator BOLKUS**—I have just a couple of questions that you might want to take on notice. You gave us details of the funding for the office of the UN High Commissioner for Human Rights for 2001-02. Could you give us those figures for the last decade on an annual basis? You also talk about Australia's Global Human Rights Program, the Human Rights Fund for 2001-02 and the Centre for Democratic Institutions. I want to get some comparison, so please give us a decade annual figure there as well.



**Ms Thomas**—I do not think those programs have been running for a full decade.

**Senator BOLKUS**—Then please give us the figures to the extent they have been running.

**Ms Thomas**—Yes. We will go back to about 1996-97.

**Senator BOLKUS**—You talk about the human rights dialogues we have with China, Vietnam and Iran. Have we attempted to have them with any other country, particularly in our region?

**Ms Moules**—The answer is no, we have not attempted to do so with any other countries. As you would understand, it is something that is relatively new. The Chinese dialogue has been going since 1997; with the other two we have only had one session each. It is something that we keep under fairly active review and, in principle, we would look at opportunities to expand it. But, as for attempts being made with other countries, at this stage they have not.

**Senator BOLKUS**—Has consideration been given, for instance, to kicking one off with Indonesia?

**Ms Moules**—No, not to my knowledge. That is not to say, I might just add, that we do not have some various forms of human rights cooperation with Indonesia, and AusAID obviously has various programs there. But, as far as a formal dialogue goes, I do not think there has been consideration given to that.

**Mr Davies**—I might just add to that. In the context of the Australia-Indonesia Ministerial Forum, there is a legal sector working group, and part of the mandate of that group is to discuss human rights issues.

**Senator BOLKUS**—Once again close to home, in respect of the Pacific Islands Forum we talk about regional security. What is encompassed by the declaration on regional security that we are involved with?

**Ms Thomas**—The Pacific Islands Forum passed the Nasonini declaration which built on the Honiara declaration. It focuses very much on counter-terrorism, the broader security environment and that sort of thing. We are working with the forum to implement legislative frameworks that provide model legislation for Pacific Island governments to put in place legislation that covers off those key security issues. That work is in progress now, and I think leaders are expecting a report outlining the achievements of that at the forum in August this year.

**Senator BOLKUS**—How do you factor in consideration of human rights issues in that security declaration?

**Ms Thomas**—I am not familiar with the draft legislation. I would have to go back and have a look at that. Given that Australia is providing experts to help with this work, along with New Zealand and the United States, I would expect this to be best practice legislation that is being adopted in the Pacific and it would address the broader issues of best practice in putting that together.

**Senator BOLKUS**—We have had a submission from Aid Watch which states that, of the 11 possible targets that AusAID offers in its good governance program, promoting respect for human rights and strengthening democratic processes and so on rates No. 10 on the list. How do you handle that sort of criticism?

**Ms Thomas**—Could you repeat that question.

**Senator BOLKUS**—Aid Watch has stated that, of the 11 possible targets that AusAID offers in its good governance program, promoting respect for human rights and strengthening democratic processes, civil representation and participation rates at No. 10 on the list. In essence, they are saying that we are not giving it sufficient priority.

**Ms Thomas**—I am not familiar with that list. I am not sure what targets or what list Aid Watch is referring to there. I would simply make the point that the aid program's focus on poverty reduction does attack all the core human rights issues and we consider that taking an integrated approach to poverty reduction does enable us to tackle the various aspects of human rights in the best way possible.

**Senator BOLKUS**—They are focusing on the Asia-Pacific region. I suppose their assessment is that there are continuing significant failures in good governance and respect for human rights, for instance, in PNG and other specific nations. To what extent are we focusing on those Pacific nations in our programs? How much of the budget, for instance, would be involved?

**Ms Thomas**—The Pacific is one of Australia's highest priority aid partnerships.

**Senator BOLKUS**—You always say that, though.

**Ms Thomas**—Indeed, Papua New Guinea alone receives more than \$300 million in aid. The other Pacific island countries received about \$165 million. Upwards of 25 per cent or 30 per cent of our entire aid program is focused on the Pacific. Clearly, with individual countries, we seek to deliver our assistance towards their highest priority developmental needs and that varies from country to country. Broadly speaking, the focus of our aid assistance to the Pacific is very sharply focused on law and order, trying to build the institutions for stability and the proper functioning of the rule of law, assisting Pacific countries to undertake economic and public sector reform so that they can set in train the foundations for longer term growth and, very importantly, assisting with the delivery of health and education and other services, which are pretty fundamental to overall stability and for long-term gains in poverty reduction to be made. Clearly, within all that, we do work with Pacific countries on a range of human rights areas, whether that is tackling the proper functioning of law and justice institutions or assisting a civil society organisation's transparency in government—those sort of things.

**Senator STOTT DESPOJA**—In your submission, you mention electoral assistance. This coincides with another inquiry that we are all working on. Are you aware of the Australian government being asked for assistance for the next Indonesian elections?

**Ms Thomas**—I will refer that one to my colleague Mr Davies.

**Mr Davies**—At this stage, we have not received a fully formulated request for assistance, but we have supported the Australian Electoral Commission to do some scoping work in Indonesia to determine some of the needs, particularly in the area of electoral administrator training. That is very much preliminary work. We do anticipate a consolidated request from the government of Indonesia in the latter part of this year. Our support for the 1999 elections was in the order of \$A15 million, mostly channelled through a combined donor trust fund administered by the UNDP. That is one possible model that we are looking at. At this stage, things are essentially awaiting the passage of a couple of key pieces of legislation through the Indonesian parliament before we can take the next step.

**Senator STOTT DESPOJA**—More generally, how do we compare with other nations in relation to our progress on the goals of the decade? I am also curious about international perceptions of Australia's role in this decade and how we have proceeded.

**Ms Moules**—It is hard to give an overall comparative view on this yet because the decade is still in progress. There is a study that has just now been mandated. As you are probably aware, the mid-term study showed significant gaps around the world in various countries that had yet to begin to do some additional work on human rights education. In that sense, Australia is probably ahead of the game in many respects, at least in terms of having a national committee on human rights education and a committee that has been quite active.

There is ongoing work that HREOC does through seminars and conferences—our national strategy seminar with the Attorney-General's department and the national committee held last year. In terms of activism and looking seriously at the issue, Australia stands comparatively well. In the absence of detailed information on what all other countries have done at this stage, it is difficult to do a direct comparison. But in terms of Australia's actual response, I would anticipate that we are definitely at the more active end of the scale.

**Senator STOTT DESPOJA**—I know it is hard to ask for perceptions and I also acknowledge that it is hard to quantify the way we are regarded or how we compare with other parts of the world, but do you perceive that Australia's reputation on human rights generally or human rights education specifically has changed? Have we been perceived differently in recent years? In light of international events that involve human rights dimensions, do you think there is any diminution in the esteem in which we are held on some of these matters?

**Ms Moules**—No, not in my experience.

**Ms Thomas**—To add to that, the focus of Australia's human rights assistance is very practically based. And our focus on building human rights institutions around the region is laying the platform for long-term gains in human rights development and linking that with assistance for grassroots human rights activities is a very practical focus that distinguishes our approach to human rights.

**Ms Moules**—In terms of current perceptions and Australia's standing and reputation with the High Commissioner for Human Rights, as you will be aware, Australia ran two resolutions at the recent session of the Commission on Human Rights, one on good governance and one on national institutions, both with record numbers of co-sponsors. In terms of practical commitment to human rights education and to mechanisms in institutions that support that, I think Australia's

profile is quite high. In the last week, our ambassador to the United Nations in Geneva received a letter from the Office of the High Commissioner for Human Rights, specifically thanking the government for its consistent support, particularly for national institutions, and it made reference to Australia's sponsorship of the resolution on national institutions with a record 73 co-sponsors as a demonstration of Australia's support. Those two resolutions in particular do give Australia a good standing in these areas.

**Senator STOTT DESPOJA**—Finally, a number of submissions have talked about the prospect of a support for a second decade. I know committee members keep saying: can we get through the first one? Has there been any discussion of that or do you have a view on the merits of the notion of extending it for another decade in relation to human rights education?

**Ms Thomas**—I think my colleague from DFAT might like to add to what I say. The current Commission on Human Rights, CHR 59, did make a decision that they would prepare a report on the achievements and shortcomings of the current decade and that that would be presented at next years meeting. From our point of view, we think it is probably premature to think about a second decade until that review has been done and the assessment is on the table.

**Ms Moules**—That is right.

**Senator FERGUSON**—I heard you say earlier, when you were talking about the Pacific Forum, that with the direction our aid takes you look at highest priority development needs. Who determines those priorities?

**Ms Thomas**—Normally, it is the Pacific island governments themselves. If you look around the region, quite a number of the Pacific countries have got very comprehensive national development plans in place—Fiji, Samoa and Vanuatu, for example. Vanuatu has its own comprehensive reform program. They really are the countries' own efforts to look at what their development needs are and to set their own agendas. Wherever possible, we try to fit into that agenda and take our guidance from Pacific island governments themselves. The strength of our aid partnership is significantly enhanced when those frameworks are in place and we fit into broader development efforts under way in those countries.

**Senator FERGUSON**—Do we ever try to influence their priorities?

**Ms Thomas**—No, I think most governments have got a pretty good idea about what the problems are confronting their own countries and what they need to do to tackle some of the very difficult development problems confronting them. Australia seeks to work with other donors and, clearly, we do not do everything—we need to target our assistance on areas that we think are the most critical and in which we can get the most development gains. We do not want to duplicate what the other donors are doing. I guess there is a dialogue between donors—between us and other donors and between donors and partner governments themselves. Often that can take place in an annual meeting where government meets with donors and puts their agenda on the table and donors raise issues of concern to them. The idea that there is a pretty robust dialogue is very useful.

**Senator FERGUSON**—I have limited experience in the Pacific—once was at the Pacific Forum in November 2001—but if you are referring to countries that are capable of determining

their own priorities, I would perhaps argue with you whether the Solomon Islands can determine its own priorities effectively and in a manner that we would prefer. Senator Stott Despoja and I were both there and in Vanuatu and Samoa just prior to Christmas. You talked about transparency in government. When you have a country that has a budget in which \$18 million is allocated to education and they spend \$1.3 million; and \$8 million is allocated to the Prime Minister's Department and they spend \$27 million, I do not think that is very transparent. I wonder whether a government that we are giving aid to in reasonable amounts is capable of determining its own priorities, if that is the way they run their government, bearing in mind that, just the week before we got there, the police extorted about \$6 million in additional payments. Do you think a country like that can determine its own priority for development needs?

**Ms Thomas**—Clearly the Solomon Islands is in a very difficult post-conflict situation, and that impacts upon law and order, upon its capacity to run good economic governance and those sorts of things. Nonetheless, there is a sovereign government in place and we need to work with that government. Fragile as that is, Solomon Islands has been able to put together a national economic recovery plan and that did sit there as a bit of a framework. Donors have met regularly with the Solomon Islands government. Not just Australia but donors as a whole got together in about the middle of last year and talked with the Solomon Islands government about its priorities and about how it was planning to move forward. Donors at the same time took the opportunity to deliver some quite strong messages to the Solomon Islands that there did need to be progress in law and order, in particular, and that they did need to take some small steps in reforming the economic management of the country.

In a country like the Solomons we need to be pretty upfront that we need to provide assistance to help them take those steps, and that is something that we have been willing to do, provided the momentum continues to be positive. It is much more of a closer partnership where we have to get very engaged with helping the government start to identify and set out some of those priorities and provide technical assistance to enable them to do so. But, on the other hand, the government does continue to need to take the lead, even though it has a lot of constraints, not least of which are fundamental capacity constraints within that government.

Clearly, as you mentioned, in moving from priorities to the actual execution of the budget and making sure that those priorities are adhered to and the big issues are tackled, there might be a bit of a breakdown in the system at that point when, on a day-to-day basis, things other than the sensible, long-term investments come to the fore. Again, we continue to deliver those messages to the Solomon Islands government. Where we can, we support them to undertake the work that they have outlined.

**Senator FERGUSON**—I am not suggesting that it should be aid with strings attached. I think we had that sort of a hearing a couple of years go, Madam Chair. I would have thought that, because the aid is significant, we ought to be able to put some pressure on transparency, in particular, and we ought to have at least some input into the priorities. One of the figures given to us—and I think I have it right—was that literacy in women was down to 22 per cent in the Solomon Islands. Was that the figure, Natasha?

**Senator STOTT DESPOJA**—I cannot remember the exact figure.

**Senator FERGUSON**—I know that it had dropped significantly. I would have thought from what we saw that, if it was not for what the churches were doing for education, particularly for mature students, the education level would have been even less. I would have thought that, in supplying the aid, we could have said, ‘We think you should be concentrating on some areas,’ rather than letting them develop their own priorities.

**Ms Thomas**—I think you have made a good point there, Senator. Certainly, Australia’s aid program is very much targeted at that ongoing delivery of services to the people so that, particularly those who have been affected by conflict, do not suffer more than they have to. It is also targeted at supporting the peace process. We have a major program with the ministry of health, and that supports the fundamental delivery of basic health services out to people in the provinces. Supporting the peace process has been very important. I think the national peace council that you met with is one of the very good indigenous organisations showing leadership and trying to set in train some of those very important, almost nation building, tasks of getting people to work together as a whole country again after the very serious ethnic conflict that occurred a few years ago.

We have also been very keen to make sure that our aid gets out to people—in a sense, a peace dividend; that, after peace, money is available to help people with important development projects in their own villages, whether that is building a school, building a road or just doing something that shows there are benefits to be had from peace. We are very keen to make sure that that assistance is getting right out to the grassroots in the Solomons.

I do not think we can walk away from their government. We have been very focused on law and order, in particular, as the fundamental underpinning to all other development efforts in the Solomons. That is why we have a major program in place with the police, the prisons and the courts; just to set in place some of that long-term improvement in law and order. It is very slow, I admit, and there are lots of setbacks, but there have been improvements in law and order in Honiara. With the assistance of Australian aid, 129 new police have been trained—and these are the first new police officers since 1996—the prison has reopened and the courts in the provincial areas have cleared up a backlog of cases over the last two years. It is very much at the bottom rung, I guess, of basic police assistance, of community level policing assistance—and, clearly, there are problems higher up in the police service, but nonetheless these are good gains to set in place.

We have also made it very clear to the government that we will support their efforts at economic reform, at better economic governance, but the commitment has to be there. Again, this is an area in which we have worked very closely with other donors. Australia led a joint donor mission to the Solomons last year when we went to talk very frankly with the government. We asked them about the key economic and financial reform issues confronting them and said that we were willing to help but that it had to be in the framework of agreed commitments on both sides to move forward.

**Senator FERGUSON**—How has the experiment with the New Zealand policemen integrating with their force gone?

**Ms Thomas**—The New Zealand police officers were there to be mentors to the Solomon Islands police officers. They were not integrated into line positions in the Solomon Islands police

force but were very much there working with Solomon Islands police officers at a junior level. I have not been back since our trip in December, but I think any support that is made available to those junior ranks is very helpful. It just gives them a bit of a sense that there is someone there to guide them as they get on top of their jobs.

**Senator FERGUSON**—Has the appointment of the British chap to the commissioner's job been a success?

**Ms Thomas**—He has been in place now since—I forget exactly when—January, I think, or perhaps early February. He is there doing some very useful work. Clearly, long-term change and tackling some of the difficult issues surrounding the management of the Solomon Islands police is a long-term job. But he is certainly working away at doing that.

**Senator FERGUSON**—I will give someone else a go.

**Mr PRICE**—I was just looking at the appendices. We are pumping aid into Nauru like it is going out of fashion. That does not seem to show up anywhere. Or have we just written Nauru off as a hopeless case—which is not a judgment I disagree with?

**Ms Thomas**—No. Australia's assistance to Nauru has been additional to the aid program over the last two years. Our assistance to Nauru is very targeted at assisting them with critical infrastructure and service delivery issues, particularly in relation to the supply of power and water.

**Mr PRICE**—Okay. So why is it not here? Pardon my ignorance.

**Ms Thomas**—Possibly because this submission is very much targeted at human rights and good governance assistance and it may not have shown up in the tables in front of you considering it was—

**Mr PRICE**—What falls outside of human rights and good governance assistance? It seems to me that we could almost throw anything into it.

**Mr Versegi**—That is a very good point. We have traditionally looked at governance among five central platforms: economic and financial management, law and justice, increased public sector efficiency, electoral systems and development of the civil society. But we also have more traditional sectoral bases for allocating our aid or for reporting our aid, whether they be health, education or agriculture and rural development. Clearly, governance can cut across all those sorts of areas. But for our historical reporting purposes and our international reporting purposes for development assistance, particularly with the DAC, we keep it to those sorts of elements.

**Mr PRICE**—I note that about \$4,000 a year satisfactorily deals with trafficking in women. Is that right?

**Ms Thomas**—I will ask my colleague Richard Moore to answer that.

**Mr PRICE**—It is about \$4,000 a year, from the charts.

**Mr Moore**—We have been working in the area of tackling the trafficking of women and children for several years, principally through organisations such as UNDP, which has a major regional program run out of Bangkok. We are currently trying to create a separate Australian initiative, bringing together some of the key countries in South-East Asia to try and address the problems.

**Mr PRICE**—So that is why it says about 4,000 for a number of countries?

**Mr Moore**—If you are referring to a figure of trafficked people, I think—

**Mr PRICE**—No, the money we are allocating.

**Mr Moore**—No, it would be a great deal more than that. I would say currently the amount would be—

**Mr PRICE**—Burma is about \$4,000.

**Mr Moore**—several million dollars.

**Mr PRICE**—Cambodia is \$4,000. I know this is—

**CHAIR**—I think the way it is set out in the table makes it difficult to make an assessment of the total contribution. Perhaps you could take on notice a question about that and total that for the committee and give us a more comprehensive assessment of the contribution in relation to trafficking.

**Mr PRICE**—You are supposed to rescue me, Chair, not the—

**CHAIR**—I was actually. I am always happy to help.

**Mr PRICE**—Thank you. Is it possible to make up a pie chart to show how the money is being spent across countries in terms of human rights and governance? If the countries were pooled and then maybe AIDS is shown as one sector so that we can get a feel for it. How do you assess whether we are making an impact? In terms of the decade of human rights, the government has had a track record within departments of extensively monitoring public opinion. Has your agency or the department monitored people's understanding of human rights in Australia?

**Ms Thomas**—I will answer the first question. The issue of the impact that we make through our aid program is one that is very front and centre in our minds. Generally speaking, we have people on the ground at all our posts overseas, working in the embassies, who monitor projects and provide assessment reports from time to time. At the end of a particular intervention, we would normally review what has been achieved under that program and look at possible future assistance or whether we need to move into different areas. We often draw on a wide range of technical expertise, with experts in the Australian and international community who go in and from time to time look at our projects and provide us with a report on them. At an activity level and also at a program level we do attempt to look very rigorously at what is being achieved. That sort of information probably does not filter up to an overall assessment of impact with a particular cluster of activities at the moment, but this is an area in which AusAID is looking to



expand our approach and to develop performance information systems which do attempt to aggregate up the impact issue.

**Mr PRICE**—And the polling?

**Ms Moules**—The Department of Foreign Affairs and Trade has not been involved in that. It is something that we might take on notice because the Attorney-General's Department has been primarily involved in the domestic side and follow-up to the issues for the decade.

**Mr PRICE**—Given that we are now almost becoming panicked about failing states in the Pacific, do you think the progress that you are making is satisfactory? Alternatively, in terms of strengthening governance and human rights, are we going to have to make a greater investment if we are to avoid some of these states collapsing?

**Ms Thomas**—I think it is important that we do not view the Pacific as a collective basket case and that we do differentiate between different states in the Pacific. Clearly, there are some countries which have and continue to experience problems, and the Solomon Islands, which we were talking about earlier, is clearly one of those countries. On the other hand, other countries are continuing to make progress and are really demonstrating quite good progress. Samoa, for example, really stands out as a leader of reform in the Pacific and Fiji's broad return to good governance following the coups there several years ago and its determination to address some of its problems also stands out amongst the Pacific nations. We are trying to sharpen the focus of our aid assistance in the way that you mentioned with a very strong focus on governance running through all our programs. Indeed, it is probably only in the last five years or so that aid agencies like AusAID have been able to work directly with governments on those key governance issues. For a long time it was seen to be a bit off limits for donor countries.

Now that that opening is in place, I think in recognition of the critical importance of governance to long-term development, we have very much expanded our programs in that area and are working directly with partner governments on what are some of the critical issues. In Papua New Guinea that includes working with people on their budget, on financial sector reform and on a range of other issues. That is replicated across the other Pacific countries as well. We are also sharpening the focus on law and order institutions and the contribution that they can make to stability and the overall implementation of the rule of law, and making sure that human rights principles are adhered to in the administration of justice is also very important. We are working with ombudsmen, commissions, public prosecutors' offices and prisons and with the police force to strengthen their capacity and to ensure that they operate in a good way in the societies in which they work.

If you look over time, our investment in those core areas has increased and probably will continue to increase. It is very clearly articulated in our Pacific strategy that we want to focus in on those key areas of law and justice, of economic governance and of broader governance issues, and also not forgetting service delivery, which is ensuring that people have access to health and education, which is also a very important human right and one that we support across the entire Pacific.

**Senator HARRADINE**—Obviously the work you do in these areas is very important, but we are sitting here telling others about good governance and human rights and I get the

uncomfortable feeling that we are big-noting ourselves as though we have got it all right. I have had that feeling when considering the terrorist acts that have taken place in various countries, in terms of why the general outcome that we have derived from commitment to good governance and human rights has resulted in the problems we have got—huge numbers of family breakdowns and a suicide rate that is hugely above anything you can see in the countries we are dealing with.

I am just wondering whether what we are doing in some ways might be leading to the establishment of such a society. For example, in your activities do you take into consideration or follow the principle of subsidiary function—that power should reside with the smallest group capable of efficiently performing the functions which that power has required, or is it mainly directed at the top level? I acknowledge that you have got to have public order and peace, for example, in the Solomons. That needs to be a priority. But, generally speaking, do you take into consideration, for example, the greater empowerment of families in these particular countries, particularly in the Asia-Pacific area?

**Ms Thomas**—I can start off with some broad comments in response to that, but others may wish to draw in. Generally speaking, I think the issues of good governance and human rights are not something that we are imposing on the countries of the Asia-Pacific; these are also issues that they consider very important and which are increasingly on the agenda of various regional fora and national agendas as well.

In the Pacific, for example—given that we have been talking about that a fair bit this morning—the Pacific Islands Forum, which is the annual meeting of Pacific leaders, has put forward a range of declarations and initiatives in the areas of good governance and security, and I think that does reflect the Pacific's understanding that these are important issues and that, if progress is to be made, then they need to be grappled with—albeit grappled with in a way that is culturally appropriate for the Pacific island countries themselves. I do not think we want to impose a particular model on countries but rather work with them in a way that does reflect their own national and cultural settings while overall adhering to the principles which underlie good governance and human rights.

I will turn to our work more broadly. Do we work with communities? Are we not simply focused on the top levels of governments but working down and empowering local people at a community or a village level? The role of civil society is increasing. Also, with respect to our aid program, working directly with civil society organisations and institutions has become much more prominent in our assistance over the last couple of years. We recognise very much the role of the churches, for example, in service delivery in some countries, particularly in the Pacific, and the very important work that can be done at a community level in empowering the people to tackle some of the development challenges.

Clearly, we do that in a variety of ways in a variety of different countries, but I think generally our assistance is balanced between support for governments to tackle at a national level the issues of good governance and human rights and reflecting that in more direct work with communities. I think the Human Rights Small Grants Scheme was very much set up for that purpose—that is, to ensure that funding is being delivered to the lowest level of society in countries in the Asia-Pacific to do very practical things to improve the human rights of people. Others may wish to add to that.

**Senator HARRADINE**—Can I follow that up with this question: is the priority of the aid program poverty reduction?

**Ms Thomas**—That is right—and sustainable development.

**Senator HARRADINE**—I think I read somewhere in your submission that 20 per cent of the budget goes on the good governance and human rights area.

**Ms Thomas**—That would be about right.

**Mr BAIRD**—Is that an overall percentage of the budget?

**Senator HARRADINE**—As far as I know, it is. Do you have any conflicts between those objectives?

**Ms Thomas**—Between poverty reduction and good governance?

**Senator HARRADINE**—Yes. Does it arise within your various sectors from time to time or not?

**Ms Thomas**—I do not see any conflict between our overall objective of poverty reduction and the objective of good governance. I think good governance is absolutely central to long-term poverty reduction. We make that very clear in terms of both the allocation of our resources and the different programs we pursue with partner governments. I think it also reflects the views in the international literature that have emerged very clearly over the last decade that, when you are looking at what helps countries succeed, adopting the principles of good governance is one of the very critical factors towards making those long-term gains in poverty reduction.

**Mr LAURIE FERGUSON**—I think it is fair to say that the current government has put forward a philosophy that there is nothing to be gained from confrontation with countries over human rights, that we will gain more through bilateral discussions and that engagement and working with other nations is of more value. I think that is a fair paraphrase of the policy position. Whilst it is very interesting to read about these joint resolutions in Namibia and the annual resolution on national institutions et cetera, I feel the actual on-the-ground realities that come out of some of these programs you have here are probably more important. I am wondering if we can get a bit more comment with regard to the China Human Rights Technical Cooperation Program and the Ho Chi Minh National Academy of Political Sciences.

Not to put too fine a point on it, I think that very few Tongans and residents of Vanuatu succeed in refugee claims in Australia. I appreciate the need for the government measures there, but could we have a bit more engagement with regard to what we really see as the practical outcomes of some of these in Vietnam and in China? Can we actually say that we can see some concrete gains after the money has been spent and we have had the public servants around? The most criticised, of course, is Burma. I am interested in these more front-line human rights countries.

**Ms Thomas**—I will ask Mr Davies to respond on the China question and Mr Moore to respond on Vietnam.

**Mr Davies**—In relation to the Australia-China Human Rights Technical Cooperation Program, I draw the subcommittee's attention to a report we provided to it following AusAID's previous appearance before the subcommittee on the AusAID annual report. This was the report of the annual program review and planning mission, which takes place in relation to the HRTC Program that is conducted by the human rights commission around August every year. Its purpose is to evaluate the progress and impact of activities funded in the previous year, and identify activities for the future year.

Section 2.7 of the report, which I believe is available to all of you, gives quite a detailed account of some of the impacts of the program. To summarise very briefly: the mission found that, at the simplest level, the program had succeeded in creating a very high level of dialogue between Australian and Chinese agencies, so there are very well-entrenched people to people contacts between senior officials in a range of Chinese and Australian government agencies. But, beyond those immediate sorts of effects, there were some more system wide impacts in two areas.

One was through influencing the curriculum of training organisations and the other was through the making or amendment of new policies and regulations. The report found a couple of very specific areas in which specific impacts had been achieved, particularly in the area of legislative change. It appears that the program has been able to influence the development of new rules of evidence, which are now under preparation in China. At the community level it appears to have achieved some significant outcomes in relation to domestic violence, in particular, and the behaviour of the police in responding to incidents of domestic violence. Those are some examples of the practical outcomes of what is actually a very small—but, we think, quite effective—program.

**Mr LAURIE FERGUSON**—Is anyone able to comment on the programs for Vietnam?

**Mr Moore**—The program with the Ho Chi Minh political academy is a very small program that is targeted at curriculum development for the cadres who are trained in the academy. It has involved some exchanges with Australian institutions, and has led to the development of some new curriculum materials and an ongoing platform for dialogue between human rights practitioners in Australia and Vietnam. The program was run by the Australian National University. It has come to its conclusion, but we are currently looking at whether or not to proceed to a second phase. Essentially, two of the crucial tests will be the extent to which there have been significant and lasting gains from the first phase and whether there is the potential to do better in the second phase. Those issues are currently under review.

**Mr LAURIE FERGUSON**—I know there are several, but I note one program in Pakistan. Obviously, we cannot have an impact throughout the world but, given international issues and some of the abuses in Pakistan with regard to minorities, religious conflict, terrorism et cetera, are we looking at whether we need to have a bit more of an active role in Pakistan, for instance? With regard to the reconstruction of Afghanistan, is Australia involved—or does it intend to be involved—in programs of governance there? If we do not see this as being part of our responsibility, are we confident that European and other countries are putting money in for these kinds of measures in that region?

**Mr Moore**—With regard to Afghanistan, probably our biggest contribution to good governance—and, indeed, to human rights observance—is our assistance with basic education. We have a significant program in conjunction with UNICEF which is aimed at getting girls back to school. It has been very successful in that regard; that program is certainly important in both the short term and, obviously, the long term. It is challenging perceptions about the status of girls and women. We have embarked on similar work in Pakistan, India and Bangladesh, and in each case I think it is leading to a challenging of some assumptions. If you are interested, we could provide further evidence of the impact of those programs.

**CHAIR**—I am sure the committee would be very interested to receive that, Mr Moore.

**Mr LAURIE FERGUSON**—Are we confident that in the absence of activity by ourselves—we are a minor player anyway—other countries in both Pakistan and Afghanistan are providing assistance of the sort that we see in our programs? Realistically, everyone is carrying on about al-Qaeda, terrorist organisations, some of the more fundamentalist initiatives in Pakistan, minorities, and the culture in that country—obviously that is related to those issues. Do we see this as a more prominent area for Australian activity in the future, or do we see other countries doing enough there at the moment?

**Mr Moore**—Firstly, I think our humanitarian intervention in Afghanistan is now the third biggest that we have made. Traditionally, our activities in Afghanistan have been very modest. They have been at the edge of what we really can do, given our commitments in PNG, the Pacific, South-East Asia and the rest of East Asia. We have now committed a total of about \$59 million, the vast majority of which is disbursed. As I said, basic education was a priority. We have also got an adviser working with the finance minister trying to put together a decent development budget which adjudicates competing priorities. I think that has been a very major achievement. The government of Afghanistan has some very impressive ministers who are doing their best to try and create a framework in which various partners can work. Certainly we are a small player in that, but I do think we have played a disproportionate role. Other countries, particularly European nations, Japan and obviously the United States, have the leading role.

**Mr BAIRD**—I return to the question that I attempted to ask before, which relates to the percentage of aid that goes into human rights training. You did mention the figure before—was it 20 per cent?

**Ms Thomas**—The figure we mentioned before was in relation to the proportion of the program spent on governance activities. I could not give you a figure off the top of my head for aid related to human rights training. That is something we would have to have a look at.

**Mr Versegi**—To add to what Ms Thomas has said, if you look at direct support for human rights training—human rights instruments, the support we give to the Asia-Pacific forum, the support we give to the Human Rights Small Grants Scheme, as well as elements of some of our bilateral activities—it is a smaller subset of a much broader program of assistance that we give to good governance, which is education which actually tries to address in an indirect way, and create the environment for, the improvement and advancement of human rights, whether it be in law and justice, economic and financial management or the development of civil society. So we could probably try to give you some figures of direct human rights training.

**Mr BAIRD**—Good governance is fairly broad in its interpretation.

**Mr Versegi**—Absolutely.

**Mr BAIRD**—The human rights aspect would be of interest.

**Mr PRICE**—We are getting, then, the figures on direct human rights training as opposed to police, customs officers and whatever.

**Mr Versegi**—We can attempt to give those to you.

**Mr BAIRD**—If you do not have the figures, I am interested in whether there has also been a reduction or increase in real terms in recent years. It would be helpful if we could have that as well. I am also interested in the extent to which NGOs and private sector organisations are involved in human rights training. Are you aware of that, specifically in the Pacific?

**Mr Versegi**—I will look into the Pacific. The Human Rights Small Grants Scheme—which is the program we run; I think it is about \$500,000 this year—is delivered by local NGOs. Virtually all this is delivered by local NGOs in a range of countries. One of the annexes has the previous year's small grants scheme details but, since we did the submission, there have been another 11 activities that are going to be implemented in the region, including the Pacific, mainly by local NGOs. There are programs that Australian NGOs run as well. In terms of the private sector, some of my colleagues might be able to talk about some of our bilateral activities that may be being implemented by Australian managing contractors to deliver that sort of assistance.

**Mr BAIRD**—I found it interesting that the ABS-CBN Foundation was involved in that as well. Is it only the Asia-Pacific area that you have the figures for? Do you have the figures for the extent to which the private sector and NGOs are involved in other areas as well?

**Mr Versegi**—We can try to get those, but the extent will be very small compared to what we do in the Asia-Pacific region because the main focus of our assistance is the Asia-Pacific region.

**Mr BAIRD**—But it would be interesting to see what these other organisations do as well. My other question is related to the assessment of performance, which we have talked about in various ways. How do you decide whether a program has been successful? I heard Mr Davies quote something; it almost becomes anecdotal. I suppose because of the nature of human rights it is difficult to quantify, but do you have any strict criteria for how you determine whether your programs have been successful or is it just that money is allocated with no follow-up?

**Mr Versegi**—The Human Rights Small Grants Scheme we talked about has a number of criteria that proposers need to satisfy if they are to be considered. The proposals are then ranked by our posts in accordance with their perceived quality and, in a sense, considered by a panel back here in Australia that is made up of officers from the Department of Foreign Affairs and Trade and us. They are fairly small-scale exercises; each activity costs \$50,000 to \$100,000. At the end of each activity they are required to submit a completion report, and that goes to the post.

We have not done a review of the scheme itself, but we have done a couple of desk reviews in terms of the criteria. We made some changes in the context of trying to focus the scheme a bit

more on countries of the Asia-Pacific region rather than spreading it out to a range of countries. We also changed some of the funding levels so that there were not a lot of very small activities, which we thought had very limited impact. We raised the limit to \$50,000 so that they actually have some impact. We have the project completion reports for those individual activities; they are submitted to our post, and we receive them and get some indication of how well the projects have proceeded. Some organisations have come back for a second round of support, so there is some follow-up there is well.

**Mr BAIRD**—Are there any that you regard as failures?

**Mr Versegi**—I could not actually tell you that.

**Mr BAIRD**—If the assessment is done by the trainers themselves, it is fairly suspect in terms of objective, external assessment. So you are not sure whether there have been any that you regard as having less than fully achieved the objectives you set out?

**Mr Versegi**—The reports go to our post, and the posts do send them down to us with any sort of comment they have to give. But, clearly, a sort of risk management approach to try to track every small activity that we provide is pretty difficult. I suspect that down the track we will be looking to do some review or follow-up to do some ex post evaluation of the small grants scheme and of the activity that is supported underneath that as a basis for determining how we might go forward with the scheme in the future.

**Mr BAIRD**—As part of the Joint Standing Committee on Foreign Affairs, Defence and Trade, the chair Senator Ferguson and I visited the east bloc. We found that a lot of time and effort were put into the training of judges; however, the EU judged it to be less than adequate for those who were from accession countries. What effort do we put into that area in terms of the good governance criteria?

**Ms Thomas**—I think that looking across the board we would probably put a reasonable amount of effort into this as part of our broader governance activities. In the Pacific, for example, it is one of the highest priority areas of our aid program. We have had a Pacific judicial education project running since 1999. This has particularly looked to strengthen the capacity of judicial education—the training and development of members of the judiciary—and to help develop the professional skills of judicial service personnel so that they can address the issues that they come across in their work and keep up to date with legal and judicial issues. I suspect that we also have some programs in our Asian region that focus on judicial education. Mr Moore or Mr Davies might like to outline those.

**Mr Davies**—Certainly in Indonesia a central plank of our assistance for legal reform is judicial training. That program has over a number of years supported the development of a relationship between the Australian Federal Court and the Indonesian Supreme Court. It is one of the three or four largest elements of our legal reform program in Indonesia.

**Mr Moore**—A major part of our program of assistance to Cambodia is in the area of criminal justice. We are commencing a second phase of this program because the first one was fairly successful. It involves working at a number of levels to improve conditions for people who are in the system now—and that is everybody ranging from those who are incarcerated to juveniles

who come before the bench. In Cambodia, as in regrettably some other countries, very few of the existing magistrates have legal training, let alone advanced legal training—so there is more than a little work to do. We are working on the codification of laws, the training of magistrates and court officials, and looking at alternative sentencing options and the like. We have done a little bit of work in Burma, too, on training of judges. I think there have been some study tours from Vietnam, which have involved judicial exchange.

**CHAIR**—To conclude in this area, Mr Moore, you have just mentioned Burma. In relation to the human rights training initiative, which is listed here under the ‘Civil society and human rights’ table, which organisations are currently delivering that initiative in Burma?

**Mr Moore**—The Castan Centre is delivering that.

**CHAIR**—Is it only the Castan Centre?

**Mr Moore**—I think that is the case.

**CHAIR**—If you confirm it is the Castan Centre, Mr Moore, that is great. I think on page 14 of your submission there is a reference in the HIV-AIDS area—it would not surprise anyone I am asking this question—that you are looking to produce an up-dated policy statement in the first half of 2003. I wondered how that was proceeding. You refer to the promotion of human rights in the context of HIV being examined as part of that policy statement. Could you advise us of the priority that is being given at the moment; and, if not, could you take it on notice?

**Mr Versegi**—I can answer that because this morning I asked that question of the relevant area. They are planning to complete it by the end of this calendar year or early 2004. We have had a bit of a restructure within the organisation; the HIV-AIDS part of the program that the agency looked after has been moved to a new area.

**CHAIR**—Where has it been moved to?

**Mr Versegi**—To the humanitarian and multilateral branch.

**CHAIR**—So this time line has blown out slightly.

**Mr Versegi**—Yes.

**CHAIR**—How does that fit in with the holding of dialogues, particularly with relation to China and Vietnam, where HIV is pretty pivotal as an issue? I think the last time I asked a question about whether HIV got a guernsey in the Vietnam human rights dialogue all I received across the table were blank looks as to why that might be the case. I thought it was the government’s policy from the 2001 ministerial meeting, and that is why I have been asking questions—relentlessly, I know.

**Mr Moore**—As you are very aware, Senator, HIV was not discussed at the first human rights dialogue for Vietnam, but there have been ongoing discussions about the timing and the agenda for the second and certainly we are looking at how we may discuss the human rights aspects of HIV with the Vietnamese as part of that dialogue.



**Senator HARRADINE**—I have a question on that. I was interested in what is meant by the words ‘the guide to HIV-AIDS and development’. It is talking about human rights in that area. It promotes human rights in all Australian funded HIV-AIDS projects. Does that include health assistance and so on? I mean, you just cannot say to a person who is languishing with HIV, ‘We will look after your human rights, whatever they might be.’ What does that mean?

**Mr Moore**—In regard to the programs that we manage, it is obviously multidimensional—

**Senator HARRADINE**—I am just asking what does ‘it promotes human rights’ mean.

**Mr Moore**—I think it means that we need to both directly make sure that they have access to quality of care to address their medical condition and make sure that in the provision of that care their other rights, particularly their rights to participate in society and to earn a living, are not compromised.

**Senator HARRADINE**—But isn’t there something separate? I support very strongly some of the work that has been done caring for AIDS sufferers and so on, but I would have thought you would have that as a separate objective of your aid program.

**Mr Moore**—In keeping with the way we handle other issues, human rights concerns are integrated into the activities and there is a set of standards and principles which have to be met in all activities and all programs.

**Senator HARRADINE**—Could you have a look at that?

**Mr Moore**—Certainly.

**CHAIR**—Thank you very much. This has been a fairly intense hour and a quarter, so I appreciate the efforts of AusAID and DFAT in the committee’s examination of these issues. We have crammed a lot into this space of time and we are very grateful for that. Thank you for your attendance here today. If there are any matters on which we do need additional information, the secretary will be in touch. There are a couple of areas in which questions have been taken on notice, and we would appreciate a response on those. We will also send you a copy of the transcript of the evidence so that you can make any necessary corrections to errors of transcription which might appear.

**Senator HARRADINE**—Could I ask also in respect of that whether analysis is going to be done of the ineffectiveness of some of the programs, particularly the educational programs, that are being pushed forward internationally? If you are going to have a policy on this area, you had better have a look at it from all sorts of angles and see whether what is being done now is reducing the incidence of AIDS.

**CHAIR**—Thank you, Senator Harradine. As I said, we are very grateful to the representatives of AusAID and DFAT for their assistance.

[10.47 a.m.]

**DAVIS, Dr Thomas, Project Manager, Castan Centre for Human Rights Law**

**KINLEY, Professor David, Director, Castan Centre for Human Rights Law**

**CHAIR**—I welcome the representatives of the Castan Centre for Human Rights Law and the Centre for the Study of Privatisation and Public Accountability to this hearing. The committee intends to conduct today's proceedings in public, although should you wish at any stage to give any evidence in private you may ask to do so and the committee will consider your request. Although the committee does not require you to give evidence on oath, I should remind you that these hearings are legal proceedings of the parliament and therefore warrant the same respect as proceedings of the chambers. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. I now invite you to make some opening remarks before we proceed to questions.

**Prof. Kinley**—Thank you for the opportunity to give oral evidence and for accepting our written submission. As you said, we are here in the capacity of representing both the Castan Centre for Human Rights Law and the Centre for the Study of Privatisation and Public Accountability. Insofar as talking directly of our own experience, Tom and I can only refer to the Castan Centre's experience—such as the privatisation centre has dealt with these issues is in the paper alone.

One of the reasons we felt the need to provide a submission and are very happy to be here today is not only that we have done some of the human rights and good governance training in some of the countries that we have indicated in the submission but also that we are at the beginning of a large research project concerning the role of private organisations in the delivery of aid, particularly with respect to human rights. That is at a nascent stage, but it is something that we are going to pursue, we hope, with some vigour. Dr Davis is the project manager of the Castan Centre. However, he previously undertook and has recently completed a PhD in public policy and international aid, with particular reference to PNG, so he may be receptive to questions and comments on that.

By way of an introductory statement, we would like to make four short points which really emphasise things that are in the submission. We do not wish to repeat them but simply to emphasise them. Two are of principle and two relate to practice. In regards to principle, the first of these is that we do see human rights as very much an essential part of good governance. It is intertwined and interdependent with the notion of good governance. Indeed, to be somewhat imperialistic about it, we broadly define human rights such that we would be pushed to say that any particular good governance program did not have a human rights dimension to it. We do this for many reasons which would take a long time to perhaps explore properly but for the basic reason that we see the preservation, protection and promotion of human rights as the point of government. If human rights are about the preservation of individual dignity and that place of individual within society, then surely that is what government is all about. Secondly, we would like to emphasise that we see democracy as a way to secure good governance and thereby human rights; not the only way but unquestionably, in our view, the best. It is the best because it

ensures—imperfectly, one agrees—the greatest scope for freedom and therefore the greatest minimisation of despotism.

That leads to the second point of principle. We believe that there is a necessity to engage with recalcitrant, despotic and non-democratic regimes on the question of human rights. That leads directly from the point I have just made because clearly the real politic is such that democracy is not the manner and form of government of many countries. Do we therefore consign them to the too hard basket or the ‘forget that’ basket? Clearly not, when you think of the countries that fall into this category, such as China, Vietnam and many others.

The need for engaging on human rights is one that at the very basic level we feel is absolute incumbent upon us and a nation such as Australia. If the universalisation of human rights project is truly to be a universalisation project then it must include all countries and all views. We may have differences of opinion about what those other countries may have and they may have differences of opinion about ours but we must engage. There is an academic term for this, coined by an excellent Japanese author: a truly inter-civilisational dialogue. We believe that that is an appropriate way to pursue. Why? Because human rights discourse allows a number of things. Firstly, it does allow the language of human rights to seep into governmental structures despite themselves, even if that structure is one that finds human rights either abhorrent or irrelevant. Certain regimes do exist that do believe that.

Secondly, human rights discourse arms—empowers—those within the country and particularly those within government who are latent democrats who simply cannot get it out. We believe that we can arm them and provide them with the wherewithal so that when it comes out—and they may hasten its coming—they are able to use the appropriate language. Thirdly, and perhaps most obviously, engagement begets engagement. If you engage at the level of human rights you may well be able to engage at other levels, including international commerce, and that will have the effect of breaking down barriers, particularly of the most recalcitrant regimes.

In that regard, with those particularly ‘batten down the hatches’ regimes, such as Burma, with which we have a little bit of experience, we believe that the engagement can be particularly effective alongside very strident policies of disengagement—other countries, indeed people within Australia, believing that there should not be engagement. Where you have a line of engagement alongside a strident line of disengagement you provide an alternative way in which to deliver the same message and it can be a particularly effective one. We would be happy to explore that further if the committee so wished.

With respect to the two points of practice, and more briefly, we believe that both of these are linked. The first is somewhat self-evident. There is a caveat on engagement and human rights education: that one does not pursue a line of effective cultural imperialism. There must be an aim to ensure that there is indigenous ownership of whatever it is you are educating or providing by way of information. Thus, we would see ourselves very much as human rights educators who are facilitators rather than teachers. Also, we see practical examples—one with which I personally am familiar—such as having human rights advisers placed within a bureaucracy, who may indeed be Australians. But the point is to try and create the wherewithal within that bureaucracy—in this case, it is the Directorate-General of Human Rights in Indonesia—to be able to propagate human rights notions throughout the policy agendas of the whole of the

government of Indonesia. That is not something that will ever be done by Australians, but it may be facilitated by the existence, as is currently the case, of a year-long post of human rights adviser in Jakarta. Following that, there must of course be an exit strategy. If you do go in with human rights education, you have to be able to work out how and when you are going to pull out—hopefully, at a time when there is ownership and self-sustainability within the country itself.

Lastly—and this is a point that Mr Baird raised during the last set of questions—there is the notion of the development of indicators, particularly indicators of effectiveness with respect to the developing country itself; not just the effectiveness, as it were, of the delivery of the trainers, but the effect that has had within the developing nation itself. Clearly, there is an enormous dilemma in respect of the way I see it and in the way we try and pursue it in, for instance, Burma and Indonesia. That is, on the one hand, you wish to impose indicia or indicators that will result in change but not to be so didactic that they themselves are guilty of cultural imperialism yet, on the other hand, you do not want them to be so amorphous and so entertain the views of the country that you are dealing with that, in fact, there will be no change whatsoever. It clearly has to be somewhere between. There is work being done on this not only within AusAID but also by the High Commissioner for Human Rights. The Human Rights Strengthening Program is pursuing this particular object and coming up with the same sorts of problems and difficulties. But certainly in respect of Burma we are trying, with AusAID, to establish some of these indicia, and I would be happy to talk about some of those examples in questions if the committee so wish.

**CHAIR**—Thank you very much, Professor Kinley. Dr Davis, did you wish to make any introductory remarks?

**Dr Davis**—Not at this stage.

**CHAIR**—Professor Kinley, you referred at the beginning of your remarks to this new research project that the centre is pursuing: the role of private organisations within the delivery of aid. I assume that goes back to the point that you make in your submission that there needs to be a perceived and a real separation between the delivery of human rights and good governance education by another government into a new environment and that it is best delivered, in your view, by NGOs rather than by government?

**Prof. Kinley**—No, not necessarily. The idea of independence is obviously the best way to do it. But taking our experience, for instance, we have been delivering it on behalf of the Australian government. I would say truly—of course with my hand on my heart—that what we have proceeded to do has been done on the basis of our independence. We do not feel that we have been pushing any line that has been given to us by AusAID. So it is possible to do it under the auspices of a government. The problem, of course, with NGOs doing it themselves is that it may be a question of access and it may be a question of finance. If it is done under the auspices of international organisations then both of those may dissipate, and you may be able to pursue it. I think that the most important point is not so much who is the progenitor of the project but more what level of independence in its delivery is identifiable.

**CHAIR**—That is really what I meant by my question. I took it from your submission where you in fact said it was essential that the entity be independent of foreign governments. So that is why you think that academic bodies, such as your own, are well suited to that?

**Prof. Kinley**—We are one but, of course, not the only one.

**CHAIR**—I understand that. The work that the centre is now doing on the Burma program is of great interest to me personally and, I know, to other members of the committee also. Obviously, it has had a contentious history in many ways; that is to say that proponents of democracy in Burma have themselves criticised the Australian government for going down this road, and so have certain NGOs in the Australian community. I am interested in—and perhaps you could expand on, as you offered to do—the Castan Centre’s experience in recent times and why you think the engagement is so valuable, particularly when it is opposed by proponents of democracy within the country itself.

**Prof. Kinley**—Dealing with that last point first, that has clearly been, both at an institutional level and, I have to say, at a personal level, a great problem that I am spending too many 3 a.m.’s wrestling with. Aung San Suu Kyi clearly is of the view that this is not something that the Australian government should be pursuing. Nevertheless, members of the Castan Centre have met with her, and, indeed, with the NLD committees or representatives on a number of occasions. They have always been willing and interested to engage with us on what we are doing, to hear what we are doing and to tell us what they think might be done better. But they have done so on the basis that they do not think, at the moment in any case, that it is the correct time to be pursuing it.

One thing that I think really needs to be emphasised is that the message is not one that is any different. There has never been, in my dealings with the NLD, any indication that the message we are delivering is any different from the message they are delivering or, indeed, any other human rights group is delivering—it is merely the form in which it is delivered and the time at which it is delivered. However, having said that, the NLD—clearly the most powerful opposition group; the one that has the points on the board in terms of a general election in 1989—is not the only opposition group, and there are other groups that would see the opportunity that the human rights training provides them as, possibly, a way in which to engage with the government. We have recently concluded a scoping mission in Burma for the next phase of the Burma human rights initiative. We met there with a number of representatives from some of the ethnic organisations who are very keen to be involved.

**CHAIR**—The Karen, for example?

**Prof. Kinley**—We met with representatives of all three states: the Kachin, the Mon and the Shan states. This was only our first meeting with them in-country, but they were keen to be involved. The hurdle that one has to jump there is getting the government to believe that that is an appropriate way in which to proceed, because they at the moment do not feel that they are ready to have this human rights program engaging with opposition groups, albeit that it is written, in principle, in the terms of this initiative to which they have in principle agreed.

The issue that I raised earlier in the introduction about empowering individuals, the latent democrats—and clearly they are there—is a real one. We have maybe encountered 250 middle-

ranking bureaucrats and 20 to 25 higher ranking officials. It would beggar belief that all of them were simply toeing a line and had no empathy whatsoever with the human rights arguments that we are raising. They therefore are being provided with frank, open discussion of the expectations of them held by the international regimes and by NGOs. The material we have introduced in the workshops includes things such as the Shan women rapes report, which clearly would not have found its way into the hands of those middle-ranking bureaucrats, except through such programs as this. But it also includes Amnesty International country reports and, indeed, a very powerful Amnesty International report on child soldiers, which was released late last year. That sort of information would not have found its way in.

There is an element of trust that we have been able to establish with the government, in the sense that we talk the language that they hear other people talk but we are trying to engage with them rather than simply to criticise. It does not mean that we do not criticise or, indeed, believe what they are doing violates human rights. We do; there is no question of that. It is just a question of how you deliver that message, and across the table is one way that we are proceeding to do it.

**Senator BOLKUS**—I am intrigued by your adoption of the term ‘intercivilisational dialogue’. It resonates a bit with ‘clash of civilisations’. Why do you adopt that sort of term rather than, for instance, a cultural perspective?

**Prof. Kinley**—It comes from this excellent Japanese author, whose argument, although clearly taking the side of the universal human rights project, is valid. It is not an Asian or cultural relativist argument. It says, nevertheless, that for it to be universal it is not just a question of those in the West who say they have human rights and know about human rights providing the answer to those in the developing countries or in the East who do not know about human rights or do not abide by them; rather, it has got to be truly intercivilisational. Messages can be delivered from one side of the table to the other but, equally, the West must be receptive to messages being provided from the other side across to them. He is simply saying that it should be truly intercivilisational, not just one-way.

**Senator BOLKUS**—The way I see it is that cross-cultural civilisation implies that some are not. That goes back to a concern that I have—and Senator Harradine raised it a bit earlier. We claim to have a unique position in terms of human rights and good governance, and we are confronted, both domestically and regionally, with issues of ignorance, cultural resistance or corruption. Given that there is a lot of good work being done on the ground in isolated areas, to what extent can we actually make an impact, in the absence of some pretty meaningful bilateral dialogues, at a political level? In that context, where would you be looking to, for instance, strengthen or introduce some of those dialogues?

**Prof. Kinley**—Unquestionably you have an uphill, maybe vertical, task if you are pursuing your engagement at the operational level alone. If there is no political dialogue—bilateral or otherwise—then it is going to be very difficult to see how real change can be fed from the bottom up. With countries like China, Indonesia and Vietnam, we appear to have bilateral political dialogue. With Burma it is negligible. Therefore, how does one proceed? In Burma, one of the ways the program is seeking to do this is by providing the human rights wherewithal in terms of human rights education, at this middle level, and hoping it will permeate up to open up dialogue. This is the way I view it. Here, of course, I am not speaking for the political realm of

the Australian government. But we recognise this and there is, in phase 2 of the Burma program, an alternative angle—not just workshops but also the use of a high-ranking legal expert from Australia to try to pierce that high political level with messages that are similar to those that we are delivering at the lower level.

It is akin to the way in which the special rapporteurs work. I am sure you are well aware, Senator, that there is a special rapporteur for Burma, under the UN, and a special envoy from Kofi Annan. Both of those operate at the high political level. They are having a tough time, but it falls into the same rationale: do you not do it all—disengage completely—or do you try, albeit it is a tough nut to crack, to engage, even if the most difficult point of engagement is at the high political level. My view is that that is a way in which you may break through.

**Mr BAIRD**—Did you get into the issue of corruption at all? Senator Ferguson and I have recently returned from a visit to countries in the former Eastern bloc. They are further along the track now, but obviously corruption was a major issue for them. If you look at the question of the development of a country and the assurance of investment, then getting a hold on corruption is one of the issues. As part of good governance, apart from just basic human rights—although it may have some implication for human rights—to what extent has your organisation been involved in that area?

**Prof. Kinley**—It has been tangential. Of course you are correct: the tangential way in which it has come in for us is through the rule of law. We see human rights in the rule of law as essential. It is one way not only to deliver what human rights are but also to enforce them. If the system by which you deliver and enforce human rights, the law, is not impartial, independent or removed, be it through directions coming from on high or through just straight corruption, then clearly substantial parts of your human rights regime are going to be undermined; that goes without question. But I have little experience in how to deal with corruption at this sort of level.

**Mr BAIRD**—Do you think we should be offering to put funds into anticorruption bodies in some of these developing countries or do you think there are other priorities and that should be further down the scale?

**Dr Davis**—This is not referring directly to Burma but referring more generally to foreign aid: I think what you have pointed out can be useful, but to have it align is obviously going to decrease that usefulness. I found it interesting that ACFOA, with whom you will be talking later today, were pushing the basic education line quite strongly in their submission. That obviously has some impact on this, in the sense that one of the things you see AusAID doing all the time, especially in the Asia-Pacific, is putting up institutional-strengthening projects and perhaps even contemplating something like an anticorruption commission. The extent to which those things have been useful has been limited by the fact that the state society arrangements in those countries do not reflect those in Australia. Putting in an Australian-style, or Western-style, anticorruption commission without understanding the society that it has to work within is always going to impact on its usefulness. It may be that basic education, slowing changing political cultures, is going to be of more use than just putting in a single instrument like that. How you go about changing political cultures is extremely difficult, of course, and you cannot just leave that to basic education.

**Mr BAIRD**—I heard your comment that you thought the measurement of the success of the programs was in the impact on the organisations—what it changed et cetera. How would you suggest that you go about doing that?

**Prof. Kinley**—The mechanics?

**Mr BAIRD**—Yes.

**Prof. Kinley**—I think the nettle that has to be grasped is one of negotiating these indicia with the government itself or with those people who are expected to meet the indicia indicated. There is no point in posing them, even if there is a nod, because the nod will be, ‘Oh, yes, but we’ll never meet those.’ Try and bargain; try and provide a way in which you can get as significant as possible changes agreed to, yet make them realistic such that the government would be able to meet them with such things as: ‘If you do reach these, it will be something that you will be able to say you’ve achieved. You said you weren’t going to achieve it and you have now achieved it.’ Of course, the Australian government is then able to come back and say, ‘This was a box that we put something into and now we’re able to tick it.’ To be practical, and I am not sure if you are asking for examples—

**Mr BAIRD**—Yes.

**Prof. Kinley**—For instance, this is the sort of thing we are wrestling with in Burma at the moment. Some of them are indicative or aspirational, such as encouraging the Burmese government to sign more UN human rights treaties. It has signed two: the Convention on the Elimination of All Forms of Discrimination Against Women and the children’s convention. This is not about just becoming a signatory to a document; becoming a signatory means that you will have to engage with the committee every five years with a report.

We have spent a lot of time with the Burmese—and are doing so again relatively shortly—talking about their experiences before the committees. The sorts of things they tell us are really quite revealing. They had no idea, for instance, that one of the pieces of information that we provided them with in one of the workshops was a shadow report that was compiled by a group of women on the Thai-Burma border. It was extremely well documented; a really excellent piece that was heavily footnoted and referenced. They had no idea that that had been supplied to the committee, so they went in there blind, as it were. Whatever problems our representatives may or may not have, when they go before the committee they will know if the committee has been provided with a shadow report by an NGO within Australia, so they will know the sorts of questions that might come up. They had never seen that before. That sort of naivety, that sort of, ‘Oh, we’ll just stonewall our way through the committee,’ has at least been dissipated. They realise that they are going to have to engage. The questions will come: ‘Five years ago we criticised X, Y and Z. What have you done about these?’ That means they engage with people other than just us.

On things like sentencing options with respect to children, rather than simply detaining children, let us see if the government would agree to alternatives to deal with children who are in trouble with the law. Those can be charted statistically. Also, we are pushing to have a human rights law unit introduced into the Yangon University. That means that they have to let go to a certain degree, because we are suggesting that one of us gives a guest lecture and maybe even



helps write the course. Those sorts of things are small but we think they might be able to bite them and think, ‘Yes, that’s possible,’ and move forward in that way. Those are indicia that we hope are achievable.

**CHAIR**—Perhaps our subcommittee could visit their legislature.

**Senator FERGUSON**—You raised four key points, and included in those was democracy. You said that moving towards democracy or a democratic institution was one way of ensuring an improvement in human rights and good governance. Once you talk about democratic institutions, you have eliminated half of the world’s population. I presume that included in the democracies would be countries like Zimbabwe, which has the worst human rights abuse record, and even so-called democracies in countries that Mr Baird might have visited where there is corruption, which I think is an abuse of human rights as well.

If you are going to develop democracies, that is getting only half of the way there. Is there a place for our aid being targeted at countries that will at least place some emphasis on human rights or is there a need to go into countries where they do not place any emphasis on human rights? The dilemma is: do you try and improve the situation by putting some pressure on—not threatening—and using your aid as some sort of a lever or do you concentrate your efforts where you know that you cannot have any impact on the government, where the human rights abuses may be even worse? The only way to alleviate those problems may be to concentrate on those countries where you have no dialogue. Burma was a good instance of that.

**Prof. Kinley**—You cannot consign those that are not democracies to the bin, not least for the single example of China. Indeed, it is an issue that any of the countries that I have been working in other than China will raise. They say, ‘The human rights record in China is even worse and yet they don’t seem to get as much criticism as we do.’ It is questionable but, certainly, the Burmese say that. With a population of 1.2 billion China is a massive potential economy and Burma is not. There is a simple reason for that. Even Realpolitik is something that countries sometimes do not quite appreciate in international relations, especially if they have been distanced and they have been shunned: international relations and international law is ultimately about politics. It is not some sort of mathematical equation that you simply apply to a situation and therefore think there should always be a logical outcome. It is about politics.

I think there are two reasons. Firstly, you will engage and then hear their side of the story. Even if, ultimately, their side of the story is flawed in every way, you get to hear it by discussing it with them and saying, ‘Why aren’t you pursuing this?’ They will have answers. As I said, they may be utterly fatuous or ones that you simply cannot follow, but they will have answers so you are entering into a dialogue. Secondly, you cannot consign them to the dustbin. Who is going to deal with them then? Yes, you can say that if you put them in the dustbin and you play hardball with them, they will come to their senses. That might be true but, by God, there will be a price to pay during that time, and who will pay for it? It will largely be the people within the country itself. Burma used to be one of the richest countries in the region and now look at it. I do not mean that you do not then not play hardball as well, but I think that you have to engage at some level.

**Senator FERGUSON**—Is it possible that you can put more pressure on some of the so-called democracies which have very poor human rights records than on those which have no democratic institutions at all?

**Prof. Kinley**—Can you put more pressure on the former?

**Senator FERGUSON**—Put more pressure on the so-called democracies which are abusing human rights. Zimbabwe is probably the worst example but there are plenty of others where there is corruption or where there is a democratic process which is not totally transparent. Is it possible, where people do actually go to the ballot box, that you can put more pressure on those countries than you can on those where there is no option but to put up with despotic regimes?

**Prof. Kinley**—You can, simply because you are able to be up front about the language and about the mechanisms. You can say, ‘The next time you proceed to the ballot box, you can vote these guys out.’ That is being extremely crude. Obviously, with countries where that is not possible you have to be a little more nuanced and clever in your thinking about how you introduce that. Ultimately, it will be to say, ‘These two are linked and democracy is the best way to ensure human rights.’ Indeed, I think it is fair to say that the second phase of the Burma program is one that is securely linking human rights with the democratisation and that that is the only way for them to go forwards. It is not just human rights in isolation; it is human rights with a democratic flavour, otherwise you will not be able to achieve what you say are your human rights aims.

**Senator HARRADINE**—I want to clarify a matter you raised when you talked about intercivlisation dialogue. You have given us information about Burma and the program that you have there, which is about human rights. These are the human rights which are clearly enunciated in the Universal Declaration of Human Rights. It is not a question of cultural relativism or ethical pluralism; it is these particular human rights that you are talking about, isn't it?

**Prof. Kinley**—Unquestionably, yes. We use that as the basis upon which one is propagating and facilitating discussion about these human rights. But of course, as you know, Senator, it is not necessarily the fact that there is this universal declaration; it is how one interprets it in its application that gives the room for cultural difference. It is at that point where we find it is a good way to engage because, as you will know, all the major human rights instruments have qualifications to them. They say there is a freedom of speech; however, it may be limited in certain circumstances. It is at that point, where you will have the big differences between, for instance, what a member of the Australian government might say and what a member of the Burmese government might say. National security is one of those legitimate qualifications. For the Burmese that might excuse just about everything that they do in terms of freedom of expression, but we would not say that. Yes, we do use those instruments but it is within the qualifications to those individual rights that we end up having the dialogue about the differences in one country's view of what is legitimate in order to clamp down on a particular right and what is illegitimate.

**CHAIR**—In the beginning of AusAID's evidence this morning, they referred to a workshop they held last December which flowed from a report of this subcommittee on the link between aid and human rights which we tabled following a roundtable on that issue. Did the Castan Centre participate in that workshop in December?

**Dr Davis**—Yes.

**CHAIR**—Could we have your observations on the value of the workshop and if there is any follow-up suggested by AusAID?

**Dr Davis**—I think there should be a follow-up. I thought it was valuable in, as much as anything else, getting across the message that there is more that unites us than divides us.

**Mr BAIRD**—We have heard that before.

**CHAIR**—Excuse my cynical colleague.

**Dr Davis**—It is a motherhood statement, but I think it was fairly important for a lot of the NGOs to hear that coming out of AusAID's mouth. I think that not a huge amount got done in the sense of what this committee is getting at, which is: how do you take that next step into practically implementing a lot of these issues that we agree on. Everyone agrees that human rights is an important part of development. It seems to be that the only sticking point is whether you put that up at the forefront of your negotiations over aid with a potential recipient country or not. Leaving that aside, there is still a wide-ranging area where the academic community, the NGO community, private contractors and the government itself can work together in imbuing their programming with human rights ideas. I do not think that workshop really got to that, particularly, but I certainly think that it is worthwhile pursuing it. It was good to see that the report on the workshop came out just last week.

**CHAIR**—Good. We will have to see if that is publicly available. Professor Kinley, in terms of your work with public officials—I think you described them as 250 mid-ranking public officials in Burma—what percentage are women?

**Prof. Kinley**—Roughly 35 per cent or 40 per cent. I have not done a complete analysis of it, but it would be that in every workshop that I attended.

**CHAIR**—In the context of another matter, you also referred to the agreement which forms the basis of the human rights training initiative between this government and the Burmese government. Does that require the participation of women? Is there a gender requirement in that?

**Prof. Kinley**—As I understand it, there is no formal agreement; there is no MOU. Nothing has been formally signed by both sides. Obviously that is something that AusAID or DFAT would have to confirm; but as I understand it, that is not the case. The contents of the in-principle agreement about what will proceed in phase 2 have been aired with the representatives from Burma. They have accepted, on that basis, that the way we have articulated how we want to proceed will be the way that it will proceed. But that is different from solid agreement.

**CHAIR**—Indeed. Finally, I will move off the international question for a moment to one of the domestic points that you make, which is about the Castan Centre's involvement in the human rights workshops that you give to DFAT and Austrade officials. One of the submissions we have received is from the National Committee on Human Rights Education—which, not surprisingly, advocates human rights education for all Commonwealth public officials. I wondered if the

Castan Centre had a view on that and whether you thought that was something in which you would be interested in being involved.

**Prof. Kinley**—All public officials?

**CHAIR**—All Commonwealth public officials, yes. That is what the National Community on Human Rights Education says. I gather they are not planning to use their own small budget for that process.

**Prof. Kinley**—Let me answer that by analogy: Indonesia started their human rights embracement in the bureaucracy by having a specific ministry dedicated to human rights affairs. It is not the case any more. It has been swallowed up within the Ministry of Justice and Human Rights, as it is now called. I have been involved with both those bodies, and I am still involved with the latter. Their aim is to try to inject human rights knowledge and approaches into policy development throughout the whole of the bureaucracy; not just what many people would initially think of as human rights, such as freedom of speech, movement and privacy, but also human rights instruments that cover education, health, water and housing. It does strike me that those in Western democracies—and Australia is no exception—often do not fully appreciate that their agencies are delivering in human rights. Housing bureaucrats and those who cover welfare and education are dealing with human rights issues.

**CHAIR**—How many do you think would appreciate that?

**Prof. Kinley**—How many would know that there is an economic, social and cultural rights covenant to which we are a signatory? I doubt that it would be 100 per cent.

**CHAIR**—Or even appreciate the concept that you are talking about, really?

**Prof. Kinley**—Yes, I think there would be little appreciation. However, would it make a difference if they were exposed to this? I think it may, and I think it should. Because it might make only a small appreciable difference is no reason not to do it. Surely, having signed up to that covenant, we should be more conversant with it. The extraordinary reaction on both sides post the Teoh case in 1995 indicated that there was a great concern about bureaucrats suddenly having to know more about our international obligations, which would include our human rights, and whether they would be able to do that. That particular concern may have dissipated.

**CHAIR**—Events overtook it.

**Prof. Kinley**—Indeed, even at the legal level, Teoh was quoted as an example of the position that international obligations were not part of our law unless they were incorporated, rather than the other way around. It did indicate that there was a certain concern that our bureaucrats would not know about the 900-odd international treaties that we were a signatory to, a number of which were about human rights, and I think it would be true that they did not know that.

**CHAIR**—Happily, you have led me to my last question. You said in your evidence that one of the things you were gently moving towards in Burma was talking to them about becoming signatories to further agreements, treaties and undertakings. You said that they had signed CEDAW and CROC, I think.

**Prof. Kinley**—Yes.

**CHAIR**—When I put the CROC up against the Amnesty International report on child soldiers, it makes me think that the signing of such treaties and conventions is a relatively fruitless task—and that is the nicest terminology I have been able to come up with in the last 10 minutes—unless we go way past ‘conversant with’ to ‘prepared to participate in and abide by’.

**Prof. Kinley**—That is an extreme example and an absolutely appropriate one—and, indeed, an abhorrent one—but all governments sign things that they then end up not abiding by as closely as they ought. No government, no nation, is perfect in that respect.

**CHAIR**—I understand that, and I was not claiming perfection for anybody.

**Prof. Kinley**—I am sure you weren’t. It is abhorrent. The way the Burmese react to this is to say two things which are instructive, both of which one has an immediate response to. The first thing is that they will say, ‘We have now instituted laws that say that there cannot be child soldiers and that there cannot be forced labour,’ but the reality is that it still occurs. When you put this to them, they say, ‘But we’ve got laws,’ so laws are obviously not enough. Really, indicating that saying something and then following through with it are one and the same in terms of obeying your international obligations is a revelation. The second thing, and part of the reason why there is not as good an implementation as there should be, is that there may be some adherence around the capital Rangoon but there is none out in the bush. Why? Because, effectively, they rule their own roost the further you get away from Rangoon. Put simply, there is no ability to be sure of command that far away. Therefore, it is incumbent upon the capital to ensure that that occurs.

There is the fact that they present evidence that everyone who signs up to be a soldier (a) signs up and (b) signs up as saying they are 18. When we ask, ‘What is it that the Amnesty International report says about people being coerced to sign that they are 18 even though they are 14?’ that is uncomfortable but it is very hard for them to come back with blandishments such as, ‘That doesn’t occur.’ We say, ‘We’ve got all these examples in the Amnesty International report. Would you seek to comment on those?’ They take them away and say that they will investigate at what level this is occurring. It is difficult, but the fact that they take it and that they take it on board is a small step forward. I am not saying that it is repairing the problem; it clearly is not. But the fact that you are engaging with them and bringing up information that they may otherwise have felt that they would be able to stonewall means that there is a dialogue rather than them simply saying to us, ‘It doesn’t happen, and don’t even talk to us about it.’ It goes back to the drip-drip effect: maybe that will have an effect in hastening change and, once change occurs, their being able to deal with it and produce some sort of viable government, post that change.

**CHAIR**—Thank you very much for your evidence this morning. The committee found it extremely useful and valuable in giving it some context for the practical experiences that your centre is having in your delivery of this human rights training initiative—and, on a personal note, I certainly found it to be. The concept you just referred to would be revelatory not just for the Burmese government but for a range of governments. If there are any other matters that the committee wishes to pursue with the centre, the secretary will be in touch with you. We will also

send you a transcript of your evidence. If there are errors of transcription, you may make any necessary corrections. On behalf of the subcommittee, thank you very much for appearing today.

[11.38 a.m.]

**PASCOE, Ms Felicity, Executive Officer, Centre for Democratic Institutions, Research School of Social Sciences, Australian National University**

**RICH, Mr Roland, Director, Centre for Democratic Institutions, Research School of Social Sciences, Australian National University**

**CHAIR**—Welcome to the hearing of the Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade into human rights and good governance education in the Asia-Pacific region. The committee intends to conduct today's proceedings in public, although should you wish at any stage to give any evidence in private you may ask to do so and consideration will be given to that request. Although the committee does not require you to give evidence on oath, I should remind you that these proceedings are legal proceedings of the parliament and therefore warrant the same respect as proceedings of the chambers. The giving of false or misleading evidence is a serious matter and may be regarded as contempt of the parliament. I now invite you to make some opening remarks before we proceed to questions.

**Mr Rich**—My main comment today is a very simple one, and one that we have just heard from the previous speaker—that is, there is an intrinsic link between democracy and human rights. The Centre for Democratic Institutions is a centre established by the Australian government and largely funded by AusAID to promote democracy in our region. In doing so, we find that there is an intrinsic link with human rights. Clearly that is part of our work and one of the themes that cuts across the work we do with parliaments, judiciaries and civil society in our region.

In the submission, I pointed to two ways in which this happens. The first way is that you really need a democratic structure for the full operations of human rights; for the benefits of human rights to flow. When you have a process of open speech and criticism and informed public debate, human rights can best be achieved. It is the respect for human rights that transforms an electoral democracy into a liberal democracy. One of the great challenges in our region and in the world is to move forward from the electoral democracy steps that have taken place and to consolidate those democracies into liberal democracies through the respect of human rights. Human rights is an important part of our work but I have to say it is not the principle part of our work; that is, principally we work with parliaments and judiciaries in our region. We try to improve the way those parliaments and those judiciaries work, we try to be responsive to their needs and we try to imbue in our programs some of the human rights concepts that exist.

Without elaborating, I make the point that as we say in the submission there are a number of very specific human rights education steps we have taken within our program. These include workshops on treaty implementation and how to report to the various human rights committees in Geneva. We have done them in a number of countries in the region and we are looking to do them in other countries in the region as well, depending on the demand for this sort of work. We have also held a workshop on how to design courses for teaching human rights, and we have assisted the newly established Thai human rights commission to understand the context in which

human rights commissions work. We do quite a bit of work with civil society in which human rights is a key component. That introduces the work we do as a centre.

**CHAIR**—Thank you very much. That is very helpful for the committee. One of the significant values in having your organisation before the committee today is the very practical experience that you have had in delivering the sorts of training programs and workshops that you referred to in your submission. Would it be fair to say that one of the biggest undertakings that the CDI has made in the period since its incarnation is the Thai human rights commission? It seems like a pretty significant process to me.

**Mr Rich**—No, I would not actually put that forward as one of our major—

**CHAIR**—There you go. I think it is impressive, so you can tell us what you think would be.

**Mr Rich**—We work very much with the aid concepts that AusAID has developed over the years and one of them is responsiveness. It is not donor driven. There is no point in bashing on a door that is not opened. When we had discussions with a number of people in Thailand this was one of the issues that arose. The new constitution puts a great emphasis on the regulatory institutions of that constitution. One of those regulatory institutions is the human rights commission. Thailand does not have any experience with such a commission and they asked therefore that we try to draw on the expertise we have in Australia to give them a context for it. That is why that study tour was operated in conjunction with HREOC. It included not just people who will work on the commission but also parliamentarians and journalists who will criticise the commission so that they also understand the context in which that commission will work.

It was very useful project and the commission was established in Thailand within a year of that and I think it did inform the process. But our major work, as I say, is with parliaments like the Indonesian and Thai parliaments. You are aware of that, having participated in some of those programs.

**CHAIR**—I was a grateful participant indeed and valued the experience very much.

**Senator HARRADINE**—Something is on my mind and has been for some time. You mentioned human rights and Thailand. Are you aware of the arrest of a prostitute in Sydney and her having been sent to a detention centre prior to her being sent back to Thailand and of the fact that that friendless almost-a-child died in the detention centre? Are you aware of that?

**Mr Rich**—Sorry, I am not. I have not followed that case.

**Senator HARRADINE**—I thought there may have been some talk of that amongst your colleagues and associates in Thailand.

**Mr Rich**—There is an issue being debated in Thailand now which I am afraid is just dominating the whole of the human rights debate in that country, and that is the—it seems—murder by officials of the state of up to 2,000 people involved in drug trafficking. In fact, one of the very few public officials that has been prepared to criticise the government is a member of the Human Rights Commission, and he has been singled out for criticism by government ministers for speaking in public when they see that all this should be done privately. I think that



is one of the great issues facing Thailand now. We do not know whether this spate of killings is police or rogue police who are taking the law into their own hands. I guess the positive thing is that there are people in Thailand prepared to speak out on that issue.

**Senator HARRADINE**—One of those was a commission member?

**Mr Rich**—One of those who spoke out was a commission member.

**CHAIR**—A courageous step.

**Senator BOLKUS**—In a sense following on from that, how do your programs factor in issues of corruption and cultural resistance? How do you tackle those sorts of issues with the programs you run? You are obviously dealing with a different audience from the one you would be dealing with here.

**Mr Rich**—Yes. It is a good issue to raise because, when the initial discussions about what sort of work we could do in the region took place, corruption was on a par with human rights as a great concern in these places. Corruption was seen to be hollowing out any sort of progress that was being made in these societies. Accountability has become one of the key concepts that countries try to deal with in this process. One of the things we did, interestingly, was commission a study—and the paper is on our web site—that looked at the human rights implications of corruption. Corruption is not just an economic crime. It actually vitiates people's rights in the economic and social fields, as well as in the political-civil rights field. There is a paper that Hilary Charlesworth and I supervised and Zoe Pearson wrote which I think is a very useful contribution to the debate about corruption, because it looks at corruption from a human rights perspective, and I commend that to the committee members.

We try to incorporate the issue of accountability into our programs and deal with this issue when we talk to parliamentarians, judges and so forth about various issues. From our perspective there are various ways it can be dealt with and we can only do a certain amount; a very modest amount. What we try and focus on is not so much the ethical or moral aspects—there are others that do that—but the institutional design aspects that can help combat corruption. As a centre we try to search out best practice not just in Australia but in the region that others can draw on in their design of institutions to try to combat corruption. One of those best practices, interestingly, is declarations of assets by political leaders and people holding high public office and their families—because in Asia it is always the spouse who seems to be the very wealthy person!

It is interesting that in Thailand, for example, two major cases based on politicians' declarations of assets went to the constitutional court. One led to the dismissal of the Deputy Prime Minister for a period of five years and one rather controversially led to the acquittal of the current Prime Minister, who had also made what appeared to all to be a false declaration of assets but technicalities were found. In fact, there is actually a paper on our web site that gives a very detailed analysis of that constitutional case that went before the Thai court. So, we look at institutional design. One of the lessons that we draw is, for example, from the New South Wales ICAC. A lot of their prosecutions are for perjury and that is an easier crime to prove in a court. You get to the perjury by insisting on public declarations of assets and so forth, and that is something we have been commending to countries in the region.

**Senator BOLKUS**—You mentioned your web site and you also mentioned the capacity of the Internet to play a role in this. Is there any program initiative that you would recommend to government based on Internet access?

**Mr Rich**—One of the beauties about the Internet is that it does not need the government to have its way. The anarchic design of the Internet from the beginning meant that it was somehow outside the hands of government but, clearly, there is some government involvement in certain aspects of regulating the servers and the telecommunications. The key in relation to the Internet and governments is trying to get the governments out of the Internet. Our great concern in this regard is that China in particular, Vietnam to a certain extent and Singapore are all trying in various ways to control what people can and cannot read on the Internet. My centre published a book a couple of years ago that looked at freedom of the press in our region, in South-East Asia in particular. One of the findings of one of our authors was that, in fact, Singapore is giving Beijing and Hanoi lessons on how to control servers and on all the successes they have had in their city state.

**CHAIR**—That is not entirely surprising though, is it?

**Senator BOLKUS**—In that context I am finding one of the most effective filters to which I send emails is News Ltd. They bar their journalists from access to all sorts of things—but that is another thing altogether.

**CHAIR**—That is another issue. Flowing from Senator Bolkus's question though, other organisations have made submissions in relation to the use of the Internet and also have made one submission in relation to English language skills. But the bottom line here is access and the capacity of tens of millions of people to access the Internet. It is simply not there. So to blithely promote the Internet as some do—and I am not suggesting CDI does at all—as a great tool of the democratic process and human rights institutions is really incredibly frustrating if you happen to be in the tens of millions of people who have no capacity to access it whatsoever. You do not need to respond to that, it is just my personal frustration on the issue.

**Mr Rich**—I will make a comment though on the CDI approach because I think it is a necessary approach but it is a great limitation. We are a small centre. Very early on we decided that to have impact we will target leaders, not masses. We very much target our activities to opinion leaders: parliamentarians, journalists, civil society leaders and people like that. Maybe if we were UNESCO, we could look at masses but we are only CDI.

**CHAIR**—I am not sure UNESCO is doing that terribly well themselves. I have to say—and I have said it before; it is probably on the record in an email somewhere in the world—that I think CDI's electronic newsletter is an extremely valuable tool for people who do the job that we do in this parliament. I do not know if it goes to all parliamentarians but I know I receive it and use it. I think it is extremely valuable.

**Mr BAIRD**—I was particularly interested in the last comment and the comment you had made before about the importance of individuals and basically, I suppose, champions that you can find within the government to promote human rights. I wonder whether you thought that we were doing enough to bring to Australia, under the visitor program, those who could be useful to

us in terms of human rights promotion within their countries as well. Do you see evidence of that? Are we getting the right people? There is a limited budget I know.

**Mr Rich**—Yes. There are several programs that cater to this sort of activity. I cannot pretend that I am on top of all of them. I think that the problem is a bit the other way around—that is, we tend to identify our champions in developing countries and then we capture them somehow, rain visits, trips and all sorts of things on them and expect them to do quite a lot. There is a bit of a problem with the champions terminology and concept, which is very widespread in the development assistance community. In fact, one of the criticisms of democracy promotion—and I have to keep up with that particular aspect, because that is our game—is that we tend to look for people in our own image. We tend to look for people in developing countries who are like us and then deal with those people. They say things that we like to hear and they are responsive and receptive to our ideas, but often the real opinion leaders are others. For example, in Indonesia the real opinion leaders are the heads of the Islamic organisations in that country; yet we tend to be more comfortable with the secular civil society organisation leaders in Indonesia and so forth. I think that we need to do a bit of soul-searching in this regard. We need to somehow be more open to the reality that often the society that will develop and their approach to democracy and human rights will not be identical to ours.

**Mr BAIRD**—What do you see as the major impediments to good human rights programs in developing countries? You have made some comments in your submission.

**Mr Rich**—There are huge impediments. Firstly, there is an enormous theoretical debate, which I hope has been settled but which still continues in some minds, over the idea that human rights is a luxury and you first have to get food into people's stomachs—that is the way this idea is often put forward—and that governments just do not have the time or the resources to focus on human rights when they are dealing with all these other important issues. I think that Amartya Sen has put an end to that debate in his work, which says that it is through democracy that you solve these problems. It is not that you have to wait for some process of democratisation and respect for human rights; it is through that respect that people have their issues heard and insist on having food put in their stomachs, and it is through the political process that you solve these problems and so forth.

**Mr BAIRD**—But the increasing democratisation of a country and better human rights is likely to lead to greater foreign direct investment, too, which can lead to—

**Mr Rich**—Yes. Certainly if you throw in the concept of rule of law, that is what investors are looking for—that sort of certainty in what they are doing. I think we have to remain firmly of the view in the theoretical debate that human rights and democracy are not luxuries but are the means of achieving these other objectives. That is an important part of the theoretical debate. In terms of the practical aspect of how to deal with issues, it is not linear; there are always setbacks in the promotion of human rights and democracy in the developing world. I have criticised Thailand, but it has been a great champion because it took the decision virtually by itself that it had to move in this direction to solve its problems and it has taken tremendous steps in that regard. That is why we as a centre are so keen to see Thailand succeed in this process, but you would have to say that it has taken a couple of steps backwards in the last year or two. We can only be hopeful and continue to work with them in trying to maintain the direction they are going in, even though there have been some setbacks.

**CHAIR**—Mr Rich, I refer to your fourth recommendation, which was about reports to human rights treaty committees being drafted for domestic educative purposes. I think that is a very valuable concept and I would like your comments on whether it was taken up in the human rights treaty implementation workshops that you held. Also, in your experience, are the sorts of countries with which CDI is working in the practice of making their reports under their human rights treaty obligations? For example, PNG was raised recently before CHR 59 in the context of their position there being a little fluid, for want of a better term.

**Mr Rich**—I think it is a good idea, and we are pushing it. The idea is that the human rights treaty reports are not just so a couple of people sitting at a bench in Geneva can give them a tick yes or no. It is a way that a country takes its own temperature. It is a means whereby you can formally look at the human rights situation in your own country—not have foreigners do it but you yourself look at it—in a process of officials and NGO leaders working together and making some decisions about how well you are faring in this regard. The key to this is openness and transparency. There is no other way of taking your own temperature. There is no point in a report going to the president. That does not do it. It has to be something that people can see.

The problem you raised before—access to information and the fact that huge populations in places like Indonesia and Vietnam do not have access to the Internet—is a tremendous problem in this regard, but all we can do is work with what we have. Our recommendation was, ‘Okay, you’ve got to submit these things in one of the UN languages. But please draft it also in the vernacular, so that your people do not have to know French or English to be able to read it, and put on the Internet.’ English, French and other versions are put on the Internet by the UN, so they are available publicly. A report goes onto the Internet that way through the UN High Commissioner for Human Rights web site. We thought the idea was to at least have a version of this in the vernacular and put it up to let people see how the country is going every five years or so when these reports come out.

I think the Philippines has reacted positively—and, of course, they draft in English, so that helped. Thailand is another very sophisticated country in terms of communication and IT issues, and we are hoping to see their reports come out in public as well. PNG is years behind in all its reports. I think the problem goes beyond just reports and human rights; the problem is a deep problem of governance and of having people do what is required of them in governance. But I think that would require its own inquiry.

**CHAIR**—In fact, the Senate Foreign Affairs, Defence and Trade References Committee has been undertaking an inquiry in relation to PNG.

**Senator FERGUSON**—I am interested in your comments about ‘food in the stomachs’ or dealing with human rights abuses first. If you lived in Malawi or Bulawayo, had been suffering human rights abuses for years and were lined up in a food queue because you were starving, I am quite sure that you would prefer to have food in your stomach, because you have been through the human rights abuses. So it is a difficult dilemma for governments.

**Mr Rich**—I do not deny that for an instant. If you asked an individual in a bread queue what they wanted, they would say that they wanted bread. But the point in terms of the theoretical reason they are in that bread queue is that their human rights have not been respected. Zimbabwe

is a good example of where the leadership took a policy decision to starve the opposition and starve those areas that did not vote for them.

**Senator FERGUSON**—And they still are.

**Mr Rich**—There is the problem. That problem will not be solved by food aid to that queue, for example.

**Senator FERGUSON**—No, but it will keep them alive.

**Mr Rich**—It will keep them alive, but the problem will only be solved by resolving the human rights and democratisation problems.

**Senator FERGUSON**—In the long-term.

**Mr Rich**—In the long-term.

**Senator FERGUSON**—I do understand. One of the criticisms I have read somewhere is that, particularly in the case of PNG, the problem has not been policies or programs; the problem has been lack of implementation of those policies or programs. What can be done about that?

**Mr Rich**—I always sigh deeply when I answer a question on PNG.

**CHAIR**—That is twice, in fact.

**Senator FERGUSON**—I can understand that.

**Mr Rich**—When you go there, you meet so many good people. You think that they can get to the end of the line because they have a lot of educated people in PNG who want to do the right thing and get the right solution, but they have a deep problem of non-delivery of government policy. There is no relationship between what people might decide in parliament house at Waigani and what actually happens on the ground. There are deep problems of delivery and of middle management, and there are cultural problems in that people still do not feel that they should talk. They still do not think that they should report on what is happening in their own offices.

**Senator FERGUSON**—They have geography against them as well.

**Mr Rich**—There is loyalty to the one talk system and so forth. PNG is still deeply engaged in a nation building task and somehow nation building is a preliminary process to getting some of these other things right. I do not think they have mentally built their nation yet. They still think of themselves as very disparate people in one geographical entity.

**CHAIR**—That is an interesting thought. Do you sigh when you refer to the Solomons, because I have a question on the Solomons?

**Mr Rich**—A lot of sighs.

**CHAIR**—There is a reference in your submission about the work that you are doing in conjunction with ACFOA and other Australian NGOs on a process for assisting NGO development in the Solomon Islands. Then in your summary table there is a reference to 2003 and the NGO Leadership Training Program. I am assuming they are the same thing?

**Mr Rich**—Yes.

**CHAIR**—Can you update us on that?

**Mr Rich**—The preliminary mission went to the Solomons and travelled around. Very interestingly, they got quite a sceptical response because NGO leaders in the Solomons were basically saying, ‘We have got a limited amount of time and resources and we will only work with people who are going to be there for the long haul.’

**CHAIR**—Who constituted the preliminary mission?

**Mr Rich**—I do not have the list in front of me. ACFOA sent two representatives: Emele Duituturanga and one other. I have forgotten who her assistant was. Emele is an interesting person who spans the Melanesian world. She was born in Fiji, grew up in the Solomons and has a degree from New Zealand. Anyway, Emele went around with her assistant and held the discussions. What we do not want to do is impose any sort of idea that we might have. Clearly, what the Solomons needs is far better governance, and the civil society element is not the only element that is not working in the Solomons.

We identified the problem as the civil society voice not being heard. They are active and engaged with their own communities but there does not seem to be a civil society voice that is actually shaping politics in the Solomons—not in the way that civil society should be heard in a democratic society. One of our ideas that they are keen on as well is that they develop their skills in terms of lobbying and making known their views on these issues and that they look at examples in other countries like Australia of how civil society has its voice heard.

**Senator FERGUSON**—The only strong institution in the Solomons, Samoa and places like that seems to still be the church.

**Mr Rich**—That is one of our civil society interlocutors.

**Senator FERGUSON**—Do you use the church as well to help decide what sorts of things you want to happen? We were in the Solomons, Samoa and Vanuatu in the week before Christmas and the church seemed to be the only consistent organisation that did not change or have new members every election. They change over 70 per cent of their members of parliament every time they have an election, so there is no corporate knowledge or continuity there and, certainly, it paves the way for plenty of opportunities for corruption. I know the church is criticised in a lot of other areas but in these particular islands, the church seems to be the only constant.

**Mr Rich**—I agree. I was saying to another member of your subcommittee about how we cannot just pick people in our image. Yes, Australia is a very secular society and we do things in a secular way but that is not the way that the Pacific does things. It is an interesting concept that the church in the Pacific have basically become part of custom. They have integrated themselves

into Pacific custom and it would be an error to ignore the church. We think of the church groups—not the church as such—as part of civil society and we certainly invite them along whether it is in Papua New Guinea or in the Solomons. They are a very important part of our work. Interestingly, we have another project that I mentioned briefly—a Learning Circles project in Vanuatu. Most of the Learning Circles are church based.

**Senator FERGUSON**—Are a lot of those with mature students? In the Solomons it seems that it is only the church that provides mature education.

**Mr Rich**—Virtually all of our work is adult education.

**Senator FERGUSON**—In the Solomons there was only 22 per cent or 23 per cent literacy amongst women—which has dropped dramatically from what it was.

**Mr Rich**—The gender issues are difficult throughout the Melanesian world. Political representation is one of the key issues we are trying to look at. In fact, one of our projects is a film from the highlands of Papua New Guinea about women who want to enter politics. Many of them have tried and failed, and they give their stories as to how it all happened. There is a lot of back-stabbing by the men, I can tell you.

**CHAIR**—No—I don't believe it!

**Senator FERGUSON**—That is something that does not happen here, of course.

**CHAIR**—CDI participated in the roundtable held by this subcommittee in a previous parliament—and it reported sometime after that—on the link between aid and human rights. AusAID advised us this morning that they had a workshop last December which was a follow-up to this subcommittee's on that issue. Did CDI participate in that workshop?

**Mr Rich**—I do not think we did; no.

**CHAIR**—Was that through lack of invitation or lack of time?

**Mr Rich**—I think that our Pacific parliamentary retreat—one of our major activities—was on at the same time.

**CHAIR**—Then I cannot ask you for feedback. If there are no other questions, thank you very much, Mr Rich and Ms Pascoe, for appearing before the committee today. There may be matters on which we need additional information. If so, the secretary will be in contact with you. We will also make available to you a transcript of your evidence, so you can correct any errors of transcription if necessary.

[12.19 p.m.]

**RICHARDS, Ms Kathleen, Policy Officer, Human Rights and Governance, Australian Council for Overseas Aid**

**TUPPER, Mr Graham, Executive Director, Australian Council for Overseas Aid**

**CHAIR**—Welcome. The committee intends to conduct today's proceedings in public, although should you wish at any stage to give any evidence in private you may ask to do so and the committee will consider your request. Although the committee does not require you to give evidence on oath, I should remind you that these hearings are legal proceedings of the parliament and therefore warrant the same respect as proceedings of the chambers. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. I now invite you to make some opening remarks before we proceed to questions.

**Mr Tupper**—Thank you. Let me explain to you that we have just rushed from a meeting with a group of Indonesian officials who have come here to explore the role of civil society and human rights.

**CHAIR**—We are meeting with them on Thursday.

**Mr Tupper**—They had a lot of questions and we had to extricate ourselves promptly so we could be here.

**CHAIR**—You should have brought them with you! They could have seen the committee in process.

**Mr Tupper**—As far as our submission goes, I want to focus on just one particular area: the foundation stone of basic education if human rights and good governance are to be advanced. Effective participation—that is, when people understand their situation and the options they have and when they have a voice in or a control over choices that affect their lives—is a cornerstone of effective aid programs. We in the aid sector refer to this as active involvement or active ownership leading to informed consent or informed choices. Our view is that human rights and good governance programs specifically around education are important to reinforce this process, but we have to be careful to avoid a huge and incorrect assumption—the assumption that people who are poor and marginalised have even the basic education, literacy skills and confidence to advance their human rights or to have a role in governance.

I will point to an example that we are familiar with—and I am familiar with this from my own experience. When we talk to an economist, a doctor or a lawyer, often it seems they are talking a different language and we do not understand that language even if we have a good education. I suppose you would understand that well with economists and so on. In order to understand the choices we have in front of us, in order to give informed consent, we need to understand that language and we need to understand those choices. If we in Australia have that struggle, imagine how it would be for an isolated community in a developing country where there is very low literacy if local authorities, who may be quite intimidating, accompanied by outsiders—for



example, foreign commercial interests—came to town wanting to use their resources. When the poor and the marginalised who do not have access to basic education—particularly girls and women—are confronted by a company which wants to, for example, mine their land or log their resources, their rights might be at high risk of being overridden and they face a very unequal situation.

One example that we will point to for further investigation comes from the mining ombudsman's report, which noted some work that Oxfam Community Aid Abroad have done in the mining sector. What came through consistently in their findings was that, in every case where they dealt with a marginalised community, that community did not have an understanding of what the company was going to do. The communities had very little assistance from either local authorities or companies, and many of the people did not know how to read or write so they could not even read the contracts that were presented to them. Others did not understand the difference between a verbal agreement—which is their common culture—and a written agreement. Thus the communities involved were unable to make informed decisions or provide informed consent. In a sense, they were signing over their rights without realising it.

**Senator FERGUSON**—How do you define a marginalised community?

**Mr Tupper**—‘Marginalised community’ I suppose is a catch-all phrase for either an isolated community or one that does not have access to basic rights, such as education. We are not talking about that in a spatial sense in terms of just those people who are living remotely; we are even talking about people who are living around the edges of big cities, where there are slum communities of people who have missed out in a sense and do not have access to those basic things. So that is the expression I use whenever we are talking about people who are impoverished and who frequently suffer poor education and poor health.

I could also give you an example of my own experience of this happening in the Solomon Islands with forestry, but I will not go into the details now. I saw the same thing happening with communities who, because of their lack of education and understanding, were not able to make informed choices and were signing away their rights without them knowing it. Our main message to the community is fairly simple: one of the best ways to enable poor and marginalised communities to have a voice in government and to stand up for their rights is to invest in basic education. It provides the basis for informed consent and informed choices built in three particular ways: firstly, to understand how government works and how ordinary people can have a voice; secondly, the ability to seek and gain information and assess it for its relevance and importance; and, thirdly, the confidence to be able to engage in the system—to be able to stand up in front of a group and articulate what you want. These things we take for granted. In the particular culture and education that we have we might assume these things but, when we are dealing with those whose rights are most at risk, who are marginalised or poor, these things cannot be taken for granted. One particular thing that we would point to as a recommendation, consistent with our budget submission, is the need to invest in education to reach our fair share of the millennium development goal to provide universal education to all by 2015. We have some facts and figures we can share with you about what is required to meet that target.

In conclusion, while we support very much the specific programs for training and education in human rights and good governance, and they are covered in the submission, we want to focus on and submit that there needs to be a solid commitment to basic education targeted to poor and

marginalised communities in order to minimise those most at risk of human rights abuse—the most disenfranchised. Thank you.

**CHAIR**—Thank you very much. Ms Richards, did you want to add anything at this stage?

**Ms Richards**—No, not at this stage.

**CHAIR**—Thank you and thank you very much for your submission. The case studies of the campaigns that you have detailed there are quite interesting for the committee in terms of outlining some of the practical activities in which ACFOA and the membership broadly are engaged in. In, I think, your second last recommendation, you talk about the development of new cooperative arrangements to support and enhance the work being done by Australian development NGOs in promoting human rights and good governance. Could you expand on what you mean in relation to new cooperative arrangements? That implies that there are issues about current arrangements with which you are unhappy or, perhaps, dissatisfied. What might they be, and have you taken up that sort of a suggestion with the Australian government? Secondly, in that context, ACFOA participated in this subcommittee's inquiry into the link between aid and human rights in the previous parliament, and AusAID has advised us this morning that, in December, they held a workshop that followed up the subcommittee's report—for which the subcommittee is grateful, I might say. Did you participate in that and, if so, what was your view?

**Mr Tupper**—Firstly, as far as cooperative arrangements are concerned, at the moment there are some exciting developments happening within AusAID, particularly, for new arrangements to be in place between NGOs and the in-country programs to provide what we believe would be more effective and sustainable aid program outcomes and also the ability for more input into policy and strategy between NGOs and government in those countries over a longer a period of time and, most importantly, to start to fill in the missing blanks of how government engages with civil society to improve governance in these other countries.

ACFOA has in the last 12 months been working with AusAID in particular on some principles by which we can advance these new arrangements. They are currently being negotiated on a country by country basis, so that in future—instead of having what happens at the moment where you have shorter term, very rigid contracts to provide certain outputs, whether they be water, education, health outcomes—we can have longer term, much more partnership style and flexible arrangements. We will be able to look at the obstacles to development, including, for example, the obstacles to an effective voice in government or an effective articulation of human rights in those places, so that we will not just be dealing with the symptom of poverty in terms of lack of access to basic services, we will be dealing with the causes and some of the systemic issues as well.

To answer your question, those new arrangements are in train at the moment. We would like to acknowledge AusAID's willingness to embrace a new way of working with NGOs and equally to also say that we have still got a bit of a road ahead of us in making the outcome live up to the promise that has been put on both sides. That is the first thing.

The second thing is in relation to the follow-up workshop with AusAID. That was quite a successful enterprise from our point of view in that it did highlight some various approaches that

have been taken by both NGOs and AusAID. It improved the understanding that we are working at different programs and at different levels and that it is desirable to understand what role other parties are playing in this in order for them to be collectively more effective. For example, in the workshop Oxfam Community Aid Abroad were explaining how they were operating in East Timor in relation to basic needs—education and water—and AusAID and the government were explaining what they were doing in relation to law and order issues. We all understand that making progress on all those fronts requires the other parties to be involved, so it was an opportunity to explore the practical application of human rights in aid programs without the rhetoric. We thought it was a successful enterprise.

**CHAIR**—That is good. It is a very positive response.

**Senator FERGUSON**—It is the first time that I have seen a full list of your member agencies, and there are quite a number of them. Most of them are aid agencies. Is the United Nations Association of Australia considered to be an agency?

**Mr Tupper**—I am not sure how they would define themselves but they are a member organisation. They are separately incorporated as an Australian entity which has an interest in international development.

**Senator FERGUSON**—They are certainly not an aid agency.

**Mr Tupper**—They do not run or provide aid and development programs, no.

**Senator FERGUSON**—You talked of the primacy of delivering aid as the need to provide a basic education. How do you go about making sure that that basic education is provided in those countries where the government and the churches have an educational role to play? How does ACFOA deliver what is required to provide a basic education?

**Mr Tupper**—To be clear, it would not be ACFOA; it is ACFOA members working with government. I suppose the thrust of what I was saying was that it needs to be a concerted effort by all the various parties, and that includes the host government itself in the first instance. It needs to have an action plan in place to meet the target of providing basic universal education. As far as the non-government organisations are concerned, they can help through their counterpart organisations involved in the education field in those countries, for example, expressing that view to the government of that country. It is a matter of civil society within that country being able to articulate to the government within the country the views of those who have been left out of the process, particularly those who do not have access to education.

I think we have to work harder in that area, particularly when we look at how to implement the government's policy on good governance through the aid program. We have to work out how to engage civil society organisations from within to make sure that the policies of that government are aligned to these development outcomes regarding water, health, education and so on—that is, the stakeholder of the host government, the role of civil society organisations and the NGO support for those groups. You then have the role of the Australian aid program in making sure that there are adequate investments or that the recipient governments have a high focus on education.

We strongly supported the minister's initiative a couple of years ago of the virtual Colombo Plan as a means by which education could be provided. There are lots of qualifications to that, in so far as it is easy for that to be captured by local elites—for example, if you are talking about IT and access to IT. But, done the right way, that has a great potential to increase the opportunity of access to education through the training of teachers in more remote areas more cost effectively.

**Senator FERGUSON**—We talked a lot about the Solomons this morning. When you talk about delivering basic education, you had a situation there where the government itself had a budget of \$18 million for education and spent \$1.2 million on education. If an aid agency goes in and provides education outside of the government's role, the government is going to let them do it and use the money for something else. If you deliver the money through the government or to the government, there is a chance that it still might use the money for something else. It must be a dilemma for the agencies to work out how best they can contribute towards a basic education for people in the Solomons without seeing either the money taking the place of what should be government money or the government using the money for other purposes. How do you guard against that sort of thing?

**Mr Tupper**—As best you can. In the case of NGOs who do support the Solomon Islands or PNG, for example—

**Senator FERGUSON**—It is just that we have first-hand information on the Solomons.

**Mr Tupper**—One of the things that NGOs are particularly attuned to is the need for what we call 'exit' strategies—in other words, you are providing a service, but how in the long term do you hand this service over to the control of local communities, sufficiently resourced by them with whatever budgets are available from central government? That involves working with local communities to get agreements in place at a local, provincial or national level and to probably go a step further in this area of effective good governance and actually mobilise those groups to articulate those concerns to government at a national level to make sure there is scrutiny of the education budgets in future.

If it is known to them that the NGO is going to be pulling out of this particular service role and the only way to meet the recurrent costs is through a combination of local fees and so on, plus national support, then it is in the interests of the local community to be aware of national budgets and the opportunities they have in government to make their views known so that there is adequate scrutiny of that. That is one way that you would work through the non-government sector. The other ways in which you can operate more from Australia are just through normal contracting evaluation and monitoring exercises to make sure that the funds you have provided are used for those purposes. Indeed, you make further payments subject to progress being met on earlier payments in that area.

**Senator FERGUSON**—One of the problems we face when we talk about the Asia-Pacific area is that there isn't one country in the Pacific region that will ever be able to resource itself fully without some sort of overseas aid, particularly from us or from other nations. We are going to be in a situation where every country in the Pacific region will be receiving aid money for basic education, which you say is the primary need so that the countries can help themselves in the future. I do not know how we can ever get to the stage of making sure that that aid money is actually delivered for education purposes, that it is not either diverted into that country's own

budget for some other purpose or used directly for some other purpose. I cannot think of one country that will ever be fully resourced. I know that New Caledonia gets assistance from France, and that is about the only difference.

**Mr Tupper**—Yes. That is a big problem in terms of the sustainability of institutions and services in the Pacific and one that we need to have a debate on. You are probably aware of Helen Hughes's most recent offering in this area.

**Senator FERGUSON**—I have not heard her most recent one but I have heard some of her previous ones.

**Mr Tupper**—Just last week she gave a paper about going cold turkey and withdrawing all aid. I do not think that that is the answer—I am sure it is not. If you want to increase instability and insecurity on our doorstep, that is a good way to go about it. I will give you an example from my own perspective: a forestry program in the Solomon Islands with which I was involved. If it used its forest resources—and, indeed, its fisheries resources—the Solomon Islands could actually be sustaining its own services. I was working for the National Council of Churches, which was investing in a sustainable wood export industry in the Solomons that was successfully exporting sustainably harvested timber to Europe for about five or six years.

This program provided for training and skilling in jobs for young Solomon Islanders so that they had a livelihood, as well as investing funds back into the community for building so that you could see the schools, hospitals and health clinics being built. It was an alternative to the round log exports that the seven large Indonesian and Korean companies were just devastating the environment through. At its heart, it was about minimal processing. The logs were rough sawn into billets of timber and then sorted and dried in the Solomon Islands for export in containers to Europe. The return per metre of wood was 50 times the value of the royalty they would have got from a round log export. So, for the same volume of wood they got 50 times the income, plus the jobs. That built up to about 1.5 per cent of total volume exports but it was stymied by the level of corruption and the lack of government support that existed in the Solomon Islands.

If that program had been successfully duplicated in other provinces and other areas of the Solomon Islands and if there had been a national scheme to encourage such a program, it could have provided at a very local level the resources needed for all those other services. It was a classic example—and I have raised this with the Minister for Foreign Affairs a couple of times—whereby government and non-government organisations working together on the national government's issues as well as with communities at the local level could have provided for a very good outcome controlled by Solomon Islanders and they would have been able to sustain their own institutions. But we are back to square one.

**Senator FERGUSON**—I think that we are behind square one.

**Mr Tupper**—I think you are right.

**CHAIR**—Your mention of forestry makes me think that perhaps we needed a forestry ombudsman in the region a long time before we needed a mining ombudsman. It is a bit late for parts of the Asian region particularly.

**Mr BAIRD**—When you talk about education, are you are talking about adult seminars and training or are you talking about education all the way through?

**Mr Tupper**—We are talking about a combination of universal primary education but, as experienced in many countries—and Kathy can give you an example from Bangladesh—we are also talking about education for those who are not literate or do not have confidence to exercise their most basic rights. So we are talking about the whole range, including literacy and classes for adults alongside things like micro-enterprise programs which give people confidence to look after their own needs and so on. Kathy could probably explain from the Bangladesh study the sorts of things that we are talking about there.

**Ms Richards**—This is a project that started eight years ago in an impoverished area in Bangladesh with a group of about 1,000 marginalised women and 400 of their children. In this particular area there were no basic services—no running water, no electricity, no latrines and certainly no education for the children. The project started with an adult literacy program for the mothers and it encouraged the mothers to bring their children along. The premise of that was to demonstrate that reading and writing skills were important not just for the adults but also for the children and their futures.

The women formed a group of about 700 and then formed a committee to represent the concerns of the overall population. That committee was engaged in training in problem solving, decision making, accountability, transparency—issues of governance. It was able to take its concerns about the lack of basic services to the district government and represent its community. Subsequently, power was installed, running water was put in, latrines were built and a school for the children was set up.

So, having started with a basic education deficiency amongst the group of adults and young children, and then building that up and instigating programs of good governance education, the women themselves were able to hold their own government accountable for the lack of basic services. Rather than instigating a project which put in the electricity or built the latrines, the women held their government accountable for what was their fundamental right.

**Mr BAIRD**—What basic training did they have?

**Ms Richards**—The training started with reading and writing. These were completely illiterate women, so it started with basic language skills training. From there the women who were most interested in engaging in a further level of training on some of the governance issues, such as problem solving and decision making, were able to put up their hands and say, ‘We’d like to be part of that training.’ They then formed a committee to represent the concerns of the overall population. One woman from the village is considering running for election at district government level. That is a great example of how—

**CHAIR**—There is a video from New Guinea that she should have a look at, which Roland Rich was telling us about before!

**Mr BAIRD**—Strictly speaking, of course, the education is a useful adjunct. But, in terms of a briefing on some of the issues, you would not necessarily need the education to take them through, would you?

**Mr Tupper**—I think it is part of confidence building. You get people who do not have a culture of writing things down—it is a verbal culture by agreement. Then, when you are dealing with government—particularly at that level—it is a matter of confidence building. Literacy is a great empowerer; it is the first step, particularly for girls and women, to feeling on a more equal basis. So, if you do not address that, you could be talking about a situation where the men make all the decisions, yet it is the women who need the forest products—the fuel wood, the forage for animals and so on. Yet the women do not take part, because they do not have the confidence to. Why? Because they do not have any basic education. I have seen this in other forestry programs. Where the women do take part, you then see them taking the next steps. I think the two go hand in hand.

**Mr BAIRD**—In your submission you talk about programs that are ‘culturally and socially relevant’. Do you think that we run programs that do not fit that definition?

**Mr Tupper**—I suppose I could talk about the possible risk with the virtual Colombo Plan and the use of IT. I quote Minister Mechai from Thailand when he launched the scheme: ‘We’ve got to be careful that we don’t build an elevator shaft and hope the building comes up around it.’ We do not want to say, ‘We’re used to the technology. We can see how it works.’ When you are talking about a rural community in Bangladesh or Gizo in the Solomon Islands, to what extent are they familiar with all this? What does it mean to them?

These programs work best when there is a good understanding of the local cultural institutions. How do people access services? How do they organise themselves? What institutions exist there? They may be different from place to place. In some places the church or a Muslim group may be the institution you work with. In other cases it might be a particular user group of forest products or a microenterprise scheme. You need to tap into what exists there. The evidence is that some programs are not sustainable; that is, when the aid program stops the benefits stop soon after because the program has not tapped into the local institutions that would have sustained it. I think that is the main part of the message of why we think social and cultural relevance is important.

**CHAIR**—I must say in relation to the point you were raising earlier that, with the help of Australia’s former ambassador to Nepal, Crispin Conroy, I saw the most extraordinary transformations amongst women in a community with basic literacy programs run by UNICEF in conjunction with a long-term Australian forestry program which had been going on in this particular area since the 1960s. It was quite phenomenal to actually speak with these women and for them to be sufficiently confident to even engage with me in the first place, given the inherent terror apparently associated with engaging with me.

**Senator FERGUSON**—We can understand that!

**CHAIR**—Exactly. The Australian parliament understands. I want to ask about one aspect of your submission where you talk about institutional strengthening and particularly the APEC Forum of National Human Rights Institutions. I was interested in the Advisory Council of Jurists, which sounds like a very interesting innovation that I had not come across until I saw it in your submission. Who constitutes the advisory council? Do you know?

**Mr Tupper**—I do not know. Kathy?

**Ms Richards**—My understanding is that it is jurists from around the region. It is a fairly new initiative of the Asia-Pacific Forum and they have most recently worked with the former special rapporteur to the UN on trafficking to put together recommendations for preventing trafficking of Nepalese women to India, who are then trapped in a vicious cycle of prostitution—

**CHAIR**—Escalating the HIV problem.

**Ms Richards**—Exactly, and all those things that can flow on from that. The advisory council is able to specifically address issues of international law, which is one particular area that is quite imbalanced across the national human rights institutes in the region in their understanding—that is, in relation to staff and whatnot. So the experts themselves on the council, who have an extremely sophisticated understanding, provide advice to the national human rights institutes which are members of the APF. That provides an extremely good flow of information.

**CHAIR**—We might try and get more information on that. As there are no further questions, Mr Tupper and Ms Richards, thank you very much for appearing before the subcommittee today. We are grateful for your submission and for your oral evidence. If there are any matters on which we do need further information, the secretary will be in touch with ACFOA. We will also send you a copy of the transcript of your evidence in case there are any errors of transcription which you wish to correct. I thank all those who have assisted the committee with our work today. The inquiry continues.

Resolved (on motion by **Mr Baird**, seconded by **Mr Laurie Ferguson**):

That the subcommittee authorises publication of the evidence taken at the public hearing this day.

**Subcommittee adjourned at 12.53 p.m.**