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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**

FRIDAY, 16 MAY 2003

SYDNEY

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## JOINT COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE

### Human Rights Subcommittee

Friday, 16 May 2003

**Members:** Senator Ferguson (*Chair*), Senator Bolkus, Senator Cook, Senator Eggleston, Senator Evans, Senator Harradine, Senator Hutchins, Senator Johnston, Senator Sandy Macdonald, Senator O'Brien, Senator Payne, Senator Stott Despoja, Mr Baird, Mr Baldwin, Mr Beazley, Mr Bevis, Mr Brereton, 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, Mr Cameron Thompson

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

**Senators and members in attendance:** Senator Payne, Senator Stott Despoja, Mr Laurie Ferguson, Mr Cameron Thompson

#### **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 9.34 a.m.**

**KENNEDY, Mr William Bruce, Director, International Programs, Human Rights and Equal Opportunity Commission**

**PAYNE, Ms Jan, Director, Public Affairs and Education, Human Rights and Equal Opportunity Commission**

**ROBINSON, Mr David Vere, Program Manager, International Programs, Human Rights and Equal Opportunity Commission**

**TEMBY, Ms Diana, Executive Director, Human Rights and Equal Opportunity Commission**

**CHAIR**—I declare open this hearing of the Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade for our inquiry into human rights and good governance education in the Asia-Pacific region. I welcome witnesses from the Human Rights and Equal Opportunity Commission. The committee prefers evidence to be given in public, but if at any stage you wish to give evidence in camera and you advise us of that wish, the committee will consider your request. Witnesses are reminded that these proceedings are regarded as seriously as proceedings of the chamber, so the evidence that you give is considered in the same manner as it would be if we were in front of the chamber. I issue an invitation to you to make an opening statement, if you wish to do so. After that, we will move to questions.

**Ms Temby**—The Human Rights and Equal Opportunity Commission appreciates the opportunity to speak to the committee about our education function and about the commission's international work. Since its establishment in 1986 the commission has successfully worked to foster greater understanding, respect and protection of human rights in Australia. Our experience in these areas has led to the commission being in high demand for the provision of technical assistance on human rights on behalf of AusAID and other international donors. We see our domestic education function as a broad one, encompassing many overlapping strategies including communicating issues through the mass media, such as the paid maternity leave debate; raising community discussion through important national inquiries, such as our current inquiry into children in immigration detention; providing information and assistance to employers and employees about their rights and responsibilities; national consultations and speaking at national and international conferences and the like. Ms Jan Payne, our public affairs manager, has prepared a PowerPoint display on curriculum linked human rights school education programs that the commission has developed for use in secondary schools around Australia. With the committee's permission, I will table an overview of the presentation rather than take up the committee's time.

**CHAIR**—Thank you.

**Ms Temby**—The Youth Challenge program was originally developed by the commission in 1998. Since then it has gone from strength to strength, with study materials reaching approximately 500,000 students. Increasingly, the commission provides information and resources for teachers and students online—a very efficient way of reaching the 1,500 secondary schools in the country. Our electronic mailing list, established late last year, has over 3,500

teachers who have subscribed voluntarily to receive regular monthly updates. Our web site is extensively used, with 3½ million page views per annum and about 36 million hits per annum on the site.

The commission is committed to exploring new opportunities in emerging technologies to communicate human rights issues to the broadest number of people in the most cost-effective manner possible. These materials can be accessed online throughout the region and by our colleagues in other national human rights institutions. May I take the opportunity today to hand the committee a mock up draft copy of our latest resource for teachers, *Youth Challenge: Teaching Human Rights and Responsibilities*, which will be released by the commission in June. We were trying to get it coloured and flashy but we did not quite make it for the day!

**CHAIR**—Thank you.

**Ms Temby**—I would like now to turn to Mr Bill Kennedy to make an opening statement about our international work.

**Mr Kennedy**—In relation to Ms Temby's evidence about our web site, I might add that when I was in Tehran recently the Islamic Human Rights Commission advised us that they examine our web site every morning and that any new information on our web site that is of interest is circulated to the members of their commission. I understand that is not unusual amongst commissions in the region; so our web site has a very definite international impact.

The submission we have provided describes our approach to international technical cooperation and also describes some of the particular activities that we participate in. I would be very happy to respond to any questions you may have concerning those activities. Rather than go over that ground again, I thought I would provide the committee with some of the rationale behind why we, as a domestic agency, find ourselves participating in international technical cooperation.

I would like to emphasise that this is a very small part of the commission's work. While everybody working in the human rights sector has concern for people who are subject to egregious abuses of human rights no matter where they occur, the fact is that HREOC's function and role focuses on the promotion and protection of human rights of Australians. However, in carrying out its role, the commission inevitably has developed expertise that is useful and valuable to countries and organisations that seek to promote and protect human rights in their own countries.

In certain circumstances, the commission are willing to use our expertise to develop, design, manage or participate in international technical cooperation. In deciding to participate in such activities, we take the view that it is in the interest of human rights, in the interest of Australia and in the interest of the commission to encourage and facilitate the development of strong human rights protections in other countries. We also believe that international technical cooperation facilitates the development by our staff of new skills and insights and provides our staff with direct and indirect benefits in terms of work and personal satisfaction. We also are of the view that the commission's domestic standing is enhanced by the establishment of international credibility through successful technical cooperation.



We participate in such activities in line with some general principles. We participate in activities that are directly in our area of specialised expertise; that return funds adequate to meet all of the costs; and that are sufficiently funded to ensure that the commission may devote enough of its resources to adequately and completely do the activity, to achieve the activity's objectives and do that to a standard that reflects well on Australia and on the commission. Also, we participate in activities that do not place the commission in a relationship or position that detracts from its role as a statutory organisation or its standing in the Australian community. We do not generally pursue technical cooperation work in competition with other organisations, preferring to become involved only when the particular activity requires the unique expertise and experience of the commission. This approach serves to ensure that technical cooperation activities remain modest in comparison with the commission's domestic activities.

Our skills seem to be valued by AusAID and foreign agencies, in the sense of both the professional expertise in human rights that we possess and the managerial expertise in international technical cooperation where it seems that we have developed a reputation for having a deft touch in dealing with highly sensitive topics. I would like to emphasise that these activities are not funded from the budget of the commission and that we are firmly of the view that our participation in and management of these activities enhances our capacity to fulfil our statutory functions in relation to the protection and promotion of the human rights of Australians.

**CHAIR**—Thank you very much for those opening remarks. Ms Temby, I think you said the email list to which you referred has 3,500 teachers as participants. How do you acquire those teachers? How do you persuade them that this is an area in which they might be interested and want to participate?

**Ms Temby**—Jan will talk further about this, but initially we advertised our web site very widely—in teachers' magazines, in the union magazines and in papers that we believed teachers would use and have access to—and then on our web site people are invited to subscribe to various lists. Of course, it is voluntary and we do not know who they are. We realise that this is going to have to be an ongoing thing and that every six or so months we are going to have to go on campaigns to ensure that we grow the web site and grow the interest among teachers.

**CHAIR**—I suppose the universities and colleges which are doing teacher training would also be target markets for you?

**Ms Temby**—Yes.

**Ms Payne**—The way we have been keeping the interest of the teachers and expanding it is that we try to provide an update every month—whether it is about a new module or something else of interest to teachers. We talk to them via the list every month. We provide information about general education activities. Another way teachers find out about it is through EdNA, which is the Commonwealth government's educational site. It picks up everything we do, so teachers who look at EdNA come back to us. As Ms Temby said, we will be running a very intensive campaign through teachers' organisations. We have quite good links with organisations and teachers' colleges. In that way, we will be letting more teachers know about it and providing education resources to them.

**Mr CAMERON THOMPSON**—Do you think understanding of the concept of human rights among students and teachers generally is too shallow? Do you think the understanding and approach to it among Australians is balanced?

**Ms Temby**—I think it is very variable. We learnt a lot through the youth challenge program, which involved a structured program where in regions and capital cities numbers of representatives from schools were brought together for a day with their teachers and presented with real life situations on a video. They commented on those and there were learning activities with their teachers around them. We found variability, of course; but I participated in a number of those days and we also found a surprisingly high understanding of the issues where they affected the students. For instance, we have an early workplace program, where we have a video with a scenario of young people in part-time jobs who are just starting in the workplace. It is left open, so there is a lot of debate around it. There are a lot of points of view expressed, including those of the employer, a young woman who comes into the workplace and a macho boy—a whole range of issues are mixed up. We found that the students have very strong views on issues that really affect them and that they can identify with, and they are quite able to express them.

As in all things, the term ‘human rights’ is a very broad term. But when young people are faced with a scenario of a young woman being harassed or discriminated against or a young man being discriminated against on account of his race—something they can identify with from the classroom, for instance—then they have quite strong views and they debate them. I think they may understand an issue and what comes out of the issue rather than that broad intellectual concept that we encompass with the term human rights.

**Mr CAMERON THOMPSON**—When you say that, are you saying that on familiar ground they have strong views? Do you think they are easily able to adapt that into wider concepts of human rights, discrimination and those sorts of issues? Do you think it should be a goal to broaden that out?

**Ms Temby**—Definitely. We are developing more modules that come at the issues from a range of different ways.

**Mr CAMERON THOMPSON**—What are some examples of areas we should be seeking to broaden?

**Ms Temby**—The new resource encompasses some of the other videos that we have already used. We have found that there are lots of ways to reuse materials and get it out again in different ways and with different angles. The introductory unit to this, ‘Human Rights in the Classroom’, is a teaching resource that shows that human rights are basic to humanity and it gives an explanation of what human rights are. There are learning outcomes:

In this unit, students will:

- Develop an understanding of what human rights are
- understand the origins of modern human rights
- appreciate the relationship between rights and responsibilities

- understand the forms human rights can take, legally and morally
- understand how human rights instruments are applied in Australian law and society
- analyse the relationship of human rights to daily life ...

What we are aiming to do there is give the conceptual outline as well as then going on to the issues that are about discrimination and human rights in practice and action.

**Mr CAMERON THOMPSON**—I might not have made my question very clear. You said they were confident about issues they were familiar with. There are two real questions here. One relates to working out how to deal with issues they are familiar with, but there is also the need to raise other issues with which they may not be familiar. Is that a real goal? In what particular areas might they not be familiar?

**Ms Temby**—I think it is a very real goal. Students are part of Australian society, so they come with all of the concepts, misunderstandings and prejudices of the rest of society. We find that, if we can get their interest on something that they understand—and the Youth Challenge day aims to do that—that broadens out into their conceptual understanding of human rights.

**Mr CAMERON THOMPSON**—I am trying to get the specifics of what areas you think the general school population may not be familiar with or may be unsure of that we could be seeking to develop their understanding of more.

**Ms Payne**—As Ms Temby said, the idea we have tried to use is looking at how students relate to a human rights situation. Human rights is such a broad umbrella.

**Mr CAMERON THOMPSON**—Yes.

**Ms Payne**—You can talk about human rights until you are blue in the face and kids might think, ‘That just means overseas; it means terrible things,’ but they do not really identify it with practical, everyday sorts of issues. That is quite true. We say to them, ‘Human rights are about everyday living, about how you treat other people, about how other people treat you and about how you work through those sorts of situations.’ In doing that, we look at the historical context of human rights et cetera. I think the difficulty that human rights as a subject in the curriculum has always had is that there is such a broad definition, because it means different things to different people all the time. That is why we have really honed in on the relevant, discursive topic and then come back to the broader sorts of issues. We ran a program a few years ago in which we asked schoolchildren to do a poster for the 50th anniversary of the Universal Declaration of Human Rights. I must admit that I was very shocked at what they came up with.

**Mr CAMERON THOMPSON**—Really?

**Ms Payne**—It was really amazing stuff. There were things like ‘the right not to be hanged’ and pictures of people hanging off things.

**CHAIR**—I am all in favour of that one!

**Ms Payne**—It was interesting, and I think that is nearer the answer to your question. I think what they see as human rights generally is probably an international universal declaration.

**Mr CAMERON THOMPSON**—I am getting at the fact that Australia is such a broad, multicultural society with so many different influences. Kids with a mainstream point of view might have a very small view about something. This is what I am getting at: those kids might have a very small view about what sorts of issues can be involved, yet they may be sitting in a classroom next to someone with a completely different set of values. I am wondering whether we have enough to be able to make them aware of the full range.

**Ms Temby**—I think it is a never-ending task; I really do. With every generation of schoolchildren we have to start again and we have to keep going on the task. What I noticed in the youth education days was that the energy levels were very high, the interest levels were very high, the capacity to debate the issues was very high—although it was probably greater in the cities than it was in the regions and the country. They are interested in issues of sexual harassment and discrimination. One of our topics is: what about Doug's rights? Doug is a disabled student. They are interested in debating who has rights and what comes out of what happens on that day. There is no lack of interest and there is plenty of energy.

We endeavour, within an extremely packed curriculum, to find ways in which we can engage with the teachers to make the teachers' lives easier. For instance, when they are thinking about what they are going to do today in drama, perhaps they will think, 'We can go to this web site and find a scenario to present to our drama students which is allied to the kinds of topics we want them to talk about.' We think we are getting through.

**Ms Payne**—There is still a long way to go.

**Ms Temby**—The curriculum is packed and our whole approach is to find ways to help teachers make their lives easier and get these topics on for debates with senior students and essay writing, for example.

**Mr CAMERON THOMPSON**—What about the way people's rights and attitudes relate to customs and things like that? Also, what about how that then flows on into the question of governance? We are also looking at that. Different attitudes or different social backgrounds result in different attitudes towards people's rights and there are different ways of presenting that. Does that translate over into that? Do we get young people thinking about the different attitudes that are expressed through governments the world over? Do they say, 'In Australia, we have a certain set of core values, but look around the Asian region at our near neighbours'? Do they think about the different attitudes in those places?

**Ms Temby**—We try to keep the programs for our days more focused than that. However, inevitably, if we look at what we are trying to do and where we are trying to come from, in some of the learning outcomes on Doug's rights, for instance, students investigate the issue of difference and the key features of the laws on disability discrimination, and understand that there may be multiple human rights and responsibilities in any situation. For example, for some of them we aim to fit into—I think you will see this in the presentation—the curriculum in a whole range of ways, including civics, citizenship and discovering democracy. The hope would be that in discovering democracy, which is part of the curriculum for secondary students, these issues on

human rights would feed into a debate on what democracy means in the region as well as in Australia. In this debate the teachers would draw out some of these broader issues.

**Mr CAMERON THOMPSON**—So, for example, would you get to a discussion about the one child policy in China and that sort of thing? Do they become aware that there are these sorts of different attitudes?

**Ms Payne**—That is not part of what we are looking at, but that is not to say that, in discussing that issue, the teachers use part of what we are talking about. We are not really doing a comparison of human rights here and human rights somewhere else.

**Mr CAMERON THOMPSON**—I am just a bit interested in to what extent it is introspective, focusing on our human rights, and to what extent it is trying to get more of a world view that challenges them about these different attitudes—because more and more of those world views are impacting back home anyway.

**Ms Temby**—We are a step back from that. We aim to provide the teachers with materials; coming the other way, we aim to get students thinking about their answers and what they are putting in their essays. We are back before that. We are aiming to put materials on the table which can be used in a variety of ways by teachers throughout the curriculum.

**CHAIR**—In some ways would you say that you are providing a foundation, which the practitioners within the system—the teachers—build upon?

**Ms Temby**—Yes, we are providing the resources that they are building on.

**CHAIR**—In relation to some of the international aspects of the operation, in particular the UN Decade for Human Rights Education and good governance: when the decade began, did HREOC make any particular changes or additions to its work to acknowledge it and engage in the process?

**Ms Temby**—We ran an international conference on the 50th anniversary of the Universal Declaration of Human Rights. Throughout that year we particularly focused on our materials, such as our letterhead, drawing attention to the UN Decade for Human Rights Education. I think it is true that the decade focused our minds on what we were doing in a more traditional education sense than before.

**CHAIR**—Is that an ongoing process, or was it like, ‘Well, here’s the first year, and we’ll acknowledge that’?

**Ms Temby**—We have tried to increase these programs, put more of our budget into these programs and increased our thinking on these programs as more concrete evidence of the UN Decade for Human Rights Education, rather than continually putting up posters and doing that kind of thing. We think this is a far more appropriate recognition by the commission of the UN Decade for Human Rights Education. We kicked it off with the conference, posters and that kind of thing, but the concrete evidence is focusing part of the commission’s work on school education.

**CHAIR**—Would you say in terms of the commission's resources and what you promote to people that, for example, the Universal Declaration of Human Rights forms a foundation of that? For example, do you distribute that to schools? I assume it is attached to your web site.

**Ms Temby**—Yes. We have a poster, which I did not bring today because of the rain.

**Ms Payne**—We send it to school libraries.

**Ms Temby**—We produced it as part of the 50th anniversary and, in fact, we still get a number of requests for this poster.

**CHAIR**—Could you provide the committee with a copy of that? You might find you get some requests from members—

**Ms Temby**—I did actually have it. I will.

**CHAIR**—The weather is challenging all of us. There might be requests for the poster from members and senators who are interested. I am sure that we do not always possess it. I know that the United Nations Association, for example, has these great little booklets which can be carried around.

The commission participates, as you indicate in your submission, in one aspect of the Australia-China human rights dialogue, and that is through the Technical Cooperation Group. I have sat on the Australian side of the table with Professor Tay at the Australia-China human rights dialogue, so I know how strong the commission is in that process. What I have never really asked is what your perspective is of the value of the work that the cooperation program does and where you see it really paying dividends in China.

**Mr Kennedy**—The first thing to say is that I do not think that we would continue to participate if we did not feel that it was of value and that it was having an impact in China. So you can accept that that is definitely the conclusion that we drew and that we continue to draw. As far as its impact in China is concerned, it really varies greatly depending on the particular organisation that we are working with. We are working with about a dozen organisations within China—the main organisations that come into contact with people on a day-to-day basis. Those organisations each have their own program of reform, which can vary from little more than lip-service to human rights to very substantial reform programs. To an extent, it is really dependent on the stance taken by the particular cooperating organisation whether or not we are able to achieve a great deal or only a small amount.

**CHAIR**—Who chooses the organisations with which HREOC would find itself partnered?

**Mr Kennedy**—The dialogue partners agree on organisations, but it is not done in a formal sense and there is nothing preventing us from suggesting that other organisations become involved. For example, through the years of the technical cooperation program we have added to the program the Ministry of Public Security—that is, the police—and we have investigated, but have not yet added to the program, the state family planning commission, the All-China Youth Federation and the All-China Disabled Persons Federation. The reason we have not recommended adding those organisations to the program is a combination of a lack of resources

and our belief that further discussions are really necessary before we can get to the point with those organisations where we are able to draw a conclusion that our assistance will have a definite impact.

As far as the impact is concerned, the program works in two ways. First of all, there is an immediate impact. An example of this might be the creation of implementing regulations against domestic violence in particular provinces of China. Another direct and immediate impact may be the convening of a group of interested agencies within a local government area to work together to combat the trafficking of women and children. These are the immediate sort of impacts. They are quite varied across the program, and some of them are quite dramatic. The longer term impact—and our belief is that the longer term impact is what we are really working towards—is more the embedding within the Chinese administration of a view that human rights are not a dangerous topic; that in fact they are something that is practical and that has an impact on the capacity of organisations to effectively fulfil their function, and that prosecutors, the courts and various organisations within China are able to carry out their mandate much more effectively if they have an eye to the promotion and protection of human rights. We are able to demonstrate that through this sort of program.

**CHAIR**—I notice also from your submission that you have done an extensive amount of work with Komnas HAM, in particular. Yesterday, coincidentally, this committee met with a large group of members of the Indonesia-Australia Specialised Training Project, which comes here under AusAID's auspices but which is currently run through UTS, I think. I noticed that there were employees of Komnas HAM as part of that. Are they likely to have encountered HREOC in their travels already, so they have come to Australia with an awareness of the importance of some of the things we are talking about today?

**Mr Kennedy**—On this visit they have not encountered HREOC. This was the first I was aware that IASTP had a group here from Komnas HAM.

**CHAIR**—The whole group is not from Komnas HAM, but in the group there are some members of Komnas HAM.

**Mr Kennedy**—It is impossible for me to talk about the individuals, but Komnas HAM is a very small organisation, with only about 50 staff. We have worked with them for some years now, although our program was finished in May 2002. But if they had been with Komnas HAM for any period of time they would certainly have encountered the Human Rights and Equal Opportunity Commission.

**CHAIR**—In some ways my question is going to the aspect of cooperation between the institutions in Australia and the work that they do internationally. It is interesting, isn't it: HREOC had a three-year relationship, I think, with Komnas HAM, and Komnas HAM representatives end up here in another program. But I am not sure that the networks actually make the links here as effectively as they might. Is that a reasonable observation?

**Mr Kennedy**—I think that is a very reasonable observation. It is a point that we have made time and again to AusAID, and Komnas HAM have made exactly the same point. Their view is that the substance of cooperation is less important than the strength of the relationship. It is the relationship between two commissions that facilitates the delivery of effective technical

cooperation. Our view has always been that it is very important that, whatever we do with Komnas HAM, it works towards the building of a strong, ongoing relationship at all levels across the commission. So we look to end up with a relationship whereby individual staff members of Komnas HAM will feel quite comfortable getting on the Internet, on email or on the telephone and talking directly to their counterparts in our organisation.

To an extent, that happens now. To an extent, that has happened already through our previous cooperation. In fact, we had a request this week directly from a member of Komnas HAM for some information about how we approach a given problem. But our belief is that, particularly as Komnas HAM itself develops, as it takes on new staff and new structures and as it changes its operations, there is a need to ensure that the relationship is ongoing and is continually strengthened. That can be done effectively through an ongoing technical cooperation project.

**CHAIR**—It occurs to me also that there is an opportunity for small ‘e’ exchange programs—that is, placement of staff in reciprocal arrangements in each of the commissions.

**Mr Kennedy**—Yes. We have done that in the past and we would like to do that in the future.

**CHAIR**—Is that funded by AusAID or is that funded by the commission?

**Mr Kennedy**—That is funded by AusAID.

**Ms Temby**—It also may be funded through the UN, through the Asia Pacific Forum, which has an exchange program. I am sure the next witnesses will talk about that. There was an exchange between Malaysia—the Malaysian commission—and Australia—our commission—of about three weeks duration in each case. We are very small organisations and so we look to short-term placements. But that happens quite a lot.

**CHAIR**—One of the other issues we have been looking at is the extent of cooperation and engagement between NGOs and quasi-government, or at least government supported, authorities. Where does HREOC line up in that regard? For example, in the Australia-China human rights dialogue I have found that non-government organisations will occasionally express significant concerns that they do not sit at the table per se. One of the responses to that is: ‘Well, HREOC does and other people do; you can make your representations through them.’ Does that happen?

**Mr Kennedy**—To an extent. At the last roundtable with NGOs hosted by the minister for foreign affairs and trade, I made the offer to brief the entire group of NGOs on the program and only one NGO took up that opportunity. I provided that briefing. No other NGOs have indicated that they wish to be briefed on the program.

**CHAIR**—I would describe that as ironic.

**Mr LAURIE FERGUSON**—I guess you could say that they might ask whether the briefing served any purpose for them in terms of having input into the process.

**Mr Kennedy**—I think the answer to that is yes, but it would be informal input. We are very interested to hear the views of Australian NGOs on how the program might operate most



effectively. We are providing technical input, so we are very interested to hear about anything that will finetune or strengthen that technical input. When we have had parties visiting from China under HRTC, we have taken them to see various public interest advocacy groups and non-government organisations and in some cases have had quite vigorous discussions between the Chinese officials and the Australian NGOs.

**Mr CAMERON THOMPSON**—It has been put to the committee that it would be a good idea to have a national centre for human rights education. What is your view on that? Is that a good idea?

**Ms Temby**—I would want to see all the specifics before I would comment, but if such proposals came forward it would be up to the commission as a whole to consider them. I do not speak for the commission as a whole. The commission consider issues and proposals, and I would have to take it to them. My general view is that there is a lot of room for human rights education, but I think the Human Rights and Equal Opportunity Commission is an organisation where almost everything we do is about human rights education.

**Mr CAMERON THOMPSON**—So do you think it might be better operated from within your organisation, within that body? Is that what you are saying?

**Ms Temby**—The proposal of itself has no meaning to me. I would have to know exactly what you meant by it and where it would fit into the whole scheme of human rights education.

**CHAIR**—It is particularly dear to the heart of the National Committee on Human Rights Education, which provided evidence to the committee through Chief Justice David Malcolm in Perth some weeks or months ago—it feels like years!—and it is something which they have been pursuing. Obviously, their establishment in relation to the UN decade and their ongoing operation is something which they see as giving them an opportunity to make these sorts of constructive suggestions, and we have been having a look at that.

**Ms Temby**—I suppose all I would say—and I am not speaking for the commission but speaking for myself—in terms of education is about the word itself. I believe that ‘education’ in terms of the commission’s mandate—the promotion and protection of human rights—is broad enough to cover an individual in a complaints process who goes through a conciliation process. We would not normally think of that as education but it is in fact education in a micro sense. It could also cover an employer or a whole range of people involved in that process or others right through to our major inquiries which may engage the whole nation. I have a very broad view of what it means to promote human rights within the community.

In the typical sense of education, if we mean school education, in other places I have worked there have been endeavours to get into the curriculum and influence teachers and say what teachers will do in schools on behalf of most well thought out and well-meaning initiatives. We are a federation. A great deal of energy has to go into dealing with that if we are talking about doing that through the curriculum. That is why we have come up with this program, which does not seek to compete with the demands of reading, writing and arithmetic but which seeks to make teachers’ lives easier.

I would not wish to comment upon a proposal I have not seen, but I do think that you can waste an awful lot of money on administration and duplicate administration within the federation and make everybody feel good but actually just annoy teachers and not achieve very much—except print a whole lot of posters! Having printed many posters, we have come to the conclusion that they have their worth—and I am not saying they do not—but that they are not the answer. I think the new technology has given us the answer in a way we have never been given it before. Again, I am speaking as one who in other guises has done mail-outs to every school in the country ad nauseam. For the first time, the new technology lets us reach students and teachers in a way that is in their own interests and is not telling them what they are going to do.

**CHAIR**—That is a very good point. To conclude in this session: Senator Stott Despoja.

**Senator STOTT DESPOJA**—Thank you, Chair. I apologise if I am duplicating any questions that may have been covered. I want to start with some specifics of some of the curriculum or education programs. First of all, how much input do you have into the Commonwealth's Discovering Democracy program, which is overseen by the Parliamentary Education Office? I am wondering if there is a role for HREOC in that.

**Ms Payne**—The quick answer to that is none. For a long time I have been on the human rights education committee that Senator Payne referred to. The Discovering Democracy people were on that as well, and we were very keen to look at that, but it just did not happen. We have not had any formal role with that program.

**Senator STOTT DESPOJA**—I would be curious to see if there is a role for you in that but also to get your views. I say this, Chair, with indulgence. I have just received an interesting complaint about the latest video that has been produced about civil rights. Some young kids have complained that this is not how they perceive their civil and/or human rights. I do not know if you would be willing to have a look at it and provide feedback to the committee.

**Ms Payne**—Sure. And I can show you our videos and hope you will not get a complaint about them.

**Senator STOTT DESPOJA**—Obviously it is all perception, but I think that there is probably a good argument for you to at least have some role, whether it is being consulted or having a look at the finished product.

**Ms Payne**—Yes.

**Senator STOTT DESPOJA**—That is something I might send you, if that is agreeable. In terms of education and public awareness, how do we rate? I know it is relative, but in terms of Australians' knowledge of good governance and human rights—given that public awareness is one of your areas—how do we rate and how do you assess that?

**Ms Payne**—Senator Payne, in another guise, asked how we evaluate our human rights education programs—

**CHAIR**—We said we would not ask you twice.

**Ms Payne**—I know. We have provided an answer about that to the other committee, but that was a narrow band that we were looking at. To evaluate what you are talking about is difficult, but I think that, as far as the commission is concerned, we would look at evaluating the presence of the commission and the commissioners and what they are saying in the media—which we can do quite successfully. We can evaluate the number of people who go to our web site each day, we can evaluate the number of teachers who use things, and I think that the community input into a recent committee about the commission would show that there is an awareness of what the commission does and the whole human rights issue. But we have done no evaluation of what people think about human rights as such.

**Ms Temby**—I think that, in lots of ways, we in the commission are influence-peddlers. We are out there endeavouring to influence people—particularly people who are of influence themselves—to see the world in terms of the promotion and protection of human rights. So if you want to see the term ‘human rights’ cropping up in the media or in debate, and with kids in classrooms, maybe you will not hear it too often. But I think that, if you look at the media response to paid maternity leave, children in detention, the stolen children inquiry or many other inquiries that have been done in the commission, then you will see that there is national debate on a range of issues in which people disagree and agree, change their minds and do not change their minds. I think Australia has a very lively and healthy debate, not under the banner of human rights but under the banner of a whole range of issues that, to us, encompass human rights. I think that is very healthy.

You constantly read in the press that people do not know who the Leader of the Opposition is, or they do not know this or that, but I found, on my days in schools with the Youth Challenges, that young people are able to debate and understand issues of discrimination and responsibility and have very strong views on what should happen in their schools and, often, with government. Maybe if you stop people in the street you do not get a very positive answer but, when you get down to one man and he says to you, ‘My daughter started work and they said to her, “If you don’t do this, you’re not keeping your job,” or “Be nice to me, or come out to dinner with me, or you’re not doing your job,”’ then that man, who may not see that as human rights, will have a very strong view on a personal level about how he thinks the world ought to be. So, in answer to your question, I think there is a healthy and lively interest in the breadth of human rights in discrimination issues in Australia.

**Senator STOTT DESPOJA**—That is very positive. I actually feel very encouraged by the level of understanding among young people. We all go to schools and talk to youth groups and students, and I think there has been a demonstrable improvement, even in the last decade. It is extraordinary. But, obviously, resources are an open-ended question. I am not handing you a dorothy dixer by any means but, specifically looking at resources for this kind of education in schools, is there more we need to be doing? Is there a role for the Commonwealth in that?

**Ms Temby**—I have worked for the Commonwealth all my life, and I think there is a role for the Commonwealth in a whole lot of things. We are a federation. I think that we have to work smarter. In an organisation like ours, we have 80 to 90 people working for us but we have become a lot smarter at what we do. As I say, we have opportunities delivered to us by the technology which we are only beginning to understand and use. It is our objective to be in the forefront of that use on behalf of human rights education and promotion throughout the community. That helps us in all sorts of ways. In dealing with the mass media, it is fantastic. We

are not running around Parliament House, flying people down or putting things in boxes any more. Journalists can come straight back to us on major issues. We can clarify issues so much more quickly, the same as we were talking about here in the classroom.

It is a new age dawning. We have just decided to put our resources into that and, as well as developing that, we are also going back to some more publications in hard copy—not to forget those that do not have access to technology—such as postcards and a whole range of the traditional forms of communication. We send out 100,000 copies of hard copy publications and reports, in one form or another, a year. More interesting than that is that close to 50,000 of those are asked for rather than us just putting them out. I suppose my answer to you is that of course we can spend a whole lot more money. To me, that is just not the debate I want to have; I want to have the debate on how we can use what we use better and be a world leader in education and promotion, particularly with schools. We are working on new modules through our Youth Challenge. We have a large one on stolen children, and this one—*Youth Challenge: Teaching Human Rights and Responsibilities*—which connects with a whole lot of traditional human rights education and, we hope, one on sexual harassment in schools to come before the end of the year.

**CHAIR**—Thank you very much. On behalf of the committee, I thank the representatives of the Human Rights and Equal Opportunity Commission for assisting the committee with our deliberations this morning. If we do need to seek any further information from you, the secretary will be in touch with the commission. We will also send you a copy of the transcript of your evidence so that, if there are any errors of transcription, you can make corrections to that.

[10.26 a.m.]

**CLARK, Mr Stephen, Research Officer, Asia Pacific Forum of National Human Rights Institutions**

**FITZPATRICK, Mr Kieren, Director, Asia Pacific Forum of National Human Rights Institutions**

**CHAIR**—I welcome the representatives of the Asia Pacific Forum of National Human Rights Institutions and thank them very much for attending the committee hearing this morning. 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 we will consider that 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 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 Fitzpatrick**—We welcome the opportunity to present oral evidence. We have made a submission, which I hope the committee found of interest. There are a number of points I would like to put forward that elaborate on our submission, particularly some updated information which we have acquired since submitting it. First of all, I will give some background information about the forum. We are a regional organisation in the Asia-Pacific comprising human rights commissions that comply with minimum standards. One point I would like to underline here is that that is fairly significant in this region, given the absence of any governmental regional human rights arrangements. We are certainly not a governmental body but we have quasi-governmental membership from individual human rights institutions. The absence of any other governmental arrangements is quite notable in this region in comparison to all the other regions of the world. The forum basically stands alone as one of the key regional organisations in the Asia-Pacific doing work on human rights.

We were established in 1996. At that stage we had four individual members. Our membership has grown this year to 12 institutions: the human rights commissions from Australia, Fiji, India, Indonesia, Malaysia, Mongolia, Nepal, New Zealand, the Philippines, the Republic of Korea, Sri Lanka and Thailand. By the end of the year our membership will probably grow to 16. We have applications pending from Afghanistan, Iran, Palestine and East Timor and will soon have them from Japan and Jordan.

One of the roles the forum plays is that of a gatekeeper for maintaining minimum standards. Membership is not open to any institution that applies: an institution must comply with the minimum standards—if it does, it get accorded full membership; if it does not, it is accorded less than full membership. In that way, the forum can maintain and promote international standards regarding the development and establishment of national human rights institutions. The key decision makers of the forum are the institutions themselves. Like any other institution, we have a board of directors comprising representatives from each of our members who elect their own

chairperson. At the moment our chair is the former Chief Justice of the Supreme Court of India and the current chairperson of the Indian commission, Justice Anand.

In our submission we have detailed our activities since our establishment. It might be useful if I focus now on the 2003 activities. We continue to play three major roles. The first is to help our members do their jobs better. Just to underline the point here, it is important that that role is seen to be supporting the individual institutions and the parliaments that have created them and established their own mandate, rather than us hectoring or lecturing or trying to interfere from outside. We are not doing that. We are, in essence, simply going in to help our institutions and our members better perform their own mandates as determined by their own national constituencies.

The second role that we play is that we go around trying to establish more national human rights institutions. We are salespersons for national institutions. So whenever an opportunity presents itself we try—often on request—to intervene and provide advice. If it is not a request, we try to influence the process from the outside. A quick example there is that, on request, the Prime Minister of East Timor has provided us with draft legislation for the establishment of the new East Timorese national human rights institution and allowed us to have quite an extensive input into the development of that legislation. As an example of influence, at the moment, the government of Japan has in the Diet a bill for the establishment of a national institution. I believe the bill will be debated in June this year. They have not requested any assistance from the forum, but the forum has endeavoured to provide assistance through their Ministry of Foreign Affairs and Ministry of Justice on how we think the bill could be improved.

Our third major function is that we promote regional cooperation. An example of that is that in two weeks time we will be in New Delhi co-hosting a regional workshop with the British Council and receiving some funding from the Office of the United Nations High Commissioner for Human Rights on disability, which essentially has two focuses. The first is: how can we get institutions to pay more attention to the rights of people with disabilities within their own jurisdictions? As you would appreciate, the difference across the region is quite phenomenal. The second component of that is that there are moves afoot at the UN level for the development of a new international treaty on the rights of people with disabilities. We have advocated for a specific role for national institutions. For the first time the UN has basically said, ‘Yes, we recognise national institutions; you have a legitimate role to participate in these negotiations.’ So the second part of our workshop is essentially to have a strategy session: who is going to do what; how are we going to advocate; and, how are we going to apportion responsibilities across all of our membership. It is basically about how we can have the maximum amount of impact.

Later on this year we will be holding our eighth annual meeting in Nepal, in Katmandu. A whole host of issues will be discussed there. That is our major forum. It is where the applications for new memberships are decided. There are issues on trafficking of women. We have developed a joint project between the Nepalese commission and the Indian commission to address trafficking, mainly for prostitution purposes, between Nepal and India. Hopefully, that project will produce a result whereby both commissions will be submitting draft legislation to their respective parliaments. Under their legislation they have the power to submit draft legislation to their respective parliaments on extraterritoriality measures that both states can implement to ensure that, regardless of where the trafficker may reside, they can be prosecuted in their respective courts. That would also deal with transmission of evidence, so if the trafficked woman

resides in Nepal but the prosecution is happening in India, the receipt of that evidence from Nepal will be legal under the extraterritoriality provision. It is similar to the legislation that Australia has implemented, in essence, on the same topic.

One of the other big issues is a reference to what we call our Advisory Council of Jurists, which is essentially another component of the forum. It is a body where, if you become a full member, you can nominate an eminent jurist. In general the jurists have been at the apex of their respective jurisdiction, so they might have been a chief justice of their respective supreme courts. In some instances we have actually got sitting jurists on the panel. Alternatively, they are professors of law—generally international law. They are looking at a reference from our membership on antiterrorism measures and their consistency with international human rights law. So in practice they will be looking at, for instance, the Malaysian Internal Security Act to examine the provisions of that act and its consistency both with Malaysia's own human rights provisions within their constitution and also their obligations under international law.

Without wishing to labour the point, I often need to stress this: this is not just a talkfest—which, in fact, in this region is not such a bad thing anyway, given the absence of regional arrangements to get people together to talk about these issues—it is more than that. The jurists provide practical recommendations back to our membership who then adopt those recommendations, if they see fit, and implement them using their own pre-existing powers provided by their own parliaments. And while I obviously cannot foreshadow what our jurists might say, one of the outcomes may be that they will provide a whole host of recommendations against individual legislation from the various members' jurisdictions with specific actions national institutions might take about amendments to that legislation, and then the institutions themselves will be able to advocate with their own parliaments and their own executives how those amendments may be put into effect. That has—again, without wishing to labour the point—had an effect. We have seen in previous references—on the death penalty, for instance—the death penalty removed from the jurisdiction of Fiji as a direct result of the activities of the Advisory Council of Jurists. There was also an administrative bar placed upon the Minister of Justice of New Zealand with regard to the extradition of someone facing the death penalty in their home state—again, as a result of a recommendation from our jurists.

Finally, we are undertaking quite an extensive project on human rights investigations training which, in essence, provides the human rights investigators of our various members with practical skills, ranging from something as simple as, 'How do you appropriately take a witness statement?' to the more extreme, 'What happens if you find a mass grave, and where can you get forensic investigation and medical science information to help your commission investigate?' This year we hope to run two of those. One definitely is planned for Sri Lanka—again, for us, an important partner organisation for this year because of the additional demands being placed upon the commission in the peace process. Essentially, in the political settlement between the government and the Tamil Tigers, the commission is being accorded specific responsibilities with regards to the monitoring of the ceasefire and the observance of human rights during that process, so the forum wishes to upgrade the skills of the staff as much as possible so they can effectively perform that role. Can I briefly outline some of the types of functions that our membership undertakes in human rights?

**CHAIR**—Just make sure you leave us enough time to ask you questions.

**Mr Fitzpatrick**—Let me just highlight some themes. Many of them undertake specific educational targeted sectors—a lot of our members actually undertake formal education activities with judicial offices, the armed services, the police, prison officials and so on; some of them, not all, have some form of input into national curricula development; most undertake generic human rights education for the general public; and some have quite specific educational mandates—and that is determined by the national context and whatever the human rights problems within that national context might be.

I will table a document produced by the Fiji Human Rights Commission, *Fiji national action plan for human rights education 2003-2005*—the Fiji government's and the commission's national action plan for human rights. It was produced with some assistance from the forum and has come out since we provided our submission. I would welcome any comments that committee members may have on that document.

Finally, in my submission, I have been shameless in asking for specific support from the committee. The committee previously has recommended to the parliament—and, by extension, to the Minister for Foreign Affairs and AusAID—that support be continued to be provided to the forum through annual contributions from AusAID. The recommendation that the committee made was absolutely instrumental in ensuring that the support provided to the forum was continued. There was discussion at AusAID for a decrease in the support provided, but the committee's recommendations were quite persuasive in ensuring that AusAID continued to provide support for us. In my shameless quest for funding, I am certainly not asking for any increase in support—that is not what the forum is requesting from AusAID. We recognise that we need to diversify our funding from a variety of different donors across the region—if we are a regional organisation, we need to be reflective of that in our funding, rather than being Australasian. What I am asking in this instance is maintenance but also a three-year commitment to give us, as an organisation, an ability to plan. As members of the committee may appreciate, it is very difficult having some longer term planning if you constantly have to go back and reassess your funding on a yearly basis, so having some degree of certainty over a three-year period would provide us with the opportunity of implementing projects that last beyond the 12-month time span. That is all I have to say; thank you.

**CHAIR**—Thank you very much. Mr Clark, do you wish to make any contribution at this stage?

**Mr Clark**—No.

**CHAIR**—I have a couple of quick questions, and I know the committee members certainly will. I think I first saw the Advisory Council of Jurists referred to in another submission, and we asked a couple of questions about it then; who is the Australian member?

**Mr Fitzpatrick**—The Australian member at the moment is Professor Gillian Triggs, Professor of International Law at Melbourne university.

**CHAIR**—The forum in Nepal later this year that you referred to as your big event of the year: who is putting that together and running it? Is it being run by you or by the Nepalese commission?



**Mr Fitzpatrick**—This year it will be largely run by us, by virtue of fact that the institutional capacity of the Nepalese commission is quite limited and, particularly, given the conflict situation they find themselves in at the moment. In fact, Nepal had put up their hand to run an annual meeting last year but they had to withdraw, in essence because of the political impasse within Nepal, where the government had been dismissed by the king and a general strike had been called for the days of our meeting. There were a whole host of factors which, in essence, meant that they withdrew their application and we relocated to Delhi in that instance.

**CHAIR**—I do not think I bore any responsibility, but I was there just before that all happened, so I am familiar with the difficulties and the tensions; that is why I asked the question.

**Mr Fitzpatrick**—Indeed. In the Indian circumstances, because it is a well-resourced commission with a large number of staff, it could pick up significant responsibilities for the management of the meeting, which lightened our burden. This year the inverse will be true; because of limited institutional capacity, much more input will have to come from the forum.

**CHAIR**—Is there parliamentary input or participation in Nepal?

**Mr Fitzpatrick**—We are awaiting final confirmation from the Nepalese commission but generally heads of state will open the meeting. Again, last year it would have been the Prime Minister of India who opened it. The government, through either the ministry of justice or foreign affairs, will take an active role. We generally have approximately 30 governments represented either through their ministry of justice or their foreign affairs departments. So in terms of a regional gathering, it is the largest that you will find on human rights in the Asia-Pacific.

**Senator STOTT DESPOJA**—Just out of curiosity, you mentioned the involvement of governments. I understand the role of national institutions, but you talked about Japan and East Timor looking at assistance with their analysis of legislation. Does that happen very often?

**Mr Fitzpatrick**—There are, as I say, another four to six proposals at the moment for the creation of a human rights institution. This year I think that is unusual. It is more likely to be two to three in any one calendar year. In terms of requests for assistance yes, it is quite likely that we will receive requests from those governments; again, generally through their foreign ministry or the ministry for justice for comment on legislation.

**Senator STOTT DESPOJA**—So you view it as a resource that can be accessed, not something that people are wary of?

**Mr Fitzpatrick**—Indeed. The way that we try to work, as a body, is not to be a body of critique—that is up to our individual members. We would not dare criticise the government of Australia about its human rights observance or obligations; that is not our role. What we are there to do is, for instance, to support the Australian Human Rights Commission, if it requested it, with whatever assistance we could provide.

**Senator STOTT DESPOJA**—Earlier I was asking HREOC about the success in getting information out to schools and about getting human rights education and good governance into

the curriculum. In the region in which you are dealing, how successful have either your efforts or general efforts been to get those core objectives into curricula?

**Mr Fitzpatrick**—It varies, I have to say. It really is determinant on the professionalism, capacity and the resources of the individual institution. Our role is obviously limited in this instance. In the example of Fiji that I have just provided, the Fiji commission requested our assistance. We provided them with information, wrote a background paper and sent someone across to help organise a workshop, bringing in the key players within the Fiji context where there was approval from the participants for the development of the national action plan. In the development of the national action plan occasionally the Fiji commission would come back to us and say, ‘Can you point us in the right direction; what other examples can you show us of how plans might be structured?’ So we have done that, but the real success of that plan will be absolutely dependent upon the professionalism of the Fiji commission.

I should also say that I think that this varies. I have worked in this environment for so long that I have seen commissions go up and down depending on their appointment of personnel and the circumstances in which they are working, so in certain instances I can point you to particular years where a commission has performed absolutely fantastic work. The Philippines commission, for instance, won the UNESCO human rights prize for human rights education, which is not a prize that is handed out willy-nilly. The commission won it for educating the military. Obviously they had a really good education program for trying to stop abuses within the military. Following that program, complaints to the commission about military violations of human rights dramatically decreased. The program was not being run for the police. The comparison between the number of complaints the commission was receiving about violations by the police and the military was absolutely astounding. The police complaints were still at an incredibly high level; military complaints had dropped quite dramatically. But I cannot tell you now whether that program will continue to be a success. That obviously depends on the efforts of the individual institutions.

**CHAIR**—I should imagine it would depend on the support and attitudes of government as well as the operations of such commissions.

**Mr Fitzpatrick**—Members of the committee are only too well aware that that varies as well. The membership of each of the individual institutions goes through periods of quite cooperative good working relationships, while at other times it can be quite testing.

**Senator STOTT DESPOJA**—I have a final point on resources—and I acknowledge that in your submission you do credit the committee and the government for their assistance. I also note that in the submission you talk about money for specific projects such as the trafficking issue, that you are hoping to get money from the UN and that you are curious as to whether or not that has come through. How confident are you of at least maintenance of financial assistance, whether that will come from New Zealand, the UN or Australia? How are you faring?

**Mr Fitzpatrick**—We are awaiting—because I think we are a second order priority—information from the recent budget. AusAID will be getting back to us next week about how they have fared. Generally, of course, AusAID has largely had a maintenance of funds. I think it would have been signalled to the forum at some earlier date if there were going to be major problems, and I have not heard any of those types of signals. So I am hopeful there but I have

not had any confirmation. With regard to New Zealand, all indications are that they will continue to put in core funding. The foreign minister and NZAID seem to be quite happy with our performance. With regard to other donors, I have to say that we have put in quite extensive work in trying to raise funds. Recently we have had quite a lot of work with the US State Department. Their interests obviously follow their strategic objectives. A lot of that at the moment is in the Middle East—Afghanistan, Iran, Jordan and those types of areas. I hope to know next week the types of projects we are hoping to get funded. So, again, I am waiting. The UK's Department for International Development seemed very responsive. Again, early indications are that it is a project that we have put forward that has elicited the interest of the organisation, so we are hopeful there.

In terms of private philanthropic support, we have approached corporations and private foundations, and again I have to say it is varied. In some instances, foundations, because they have limited funds—and I have to say the number of foundations working in the human rights field is rather small; we are talking about fewer than 10, with identified human rights projects—view us as being too close to government, or we have not successfully managed to sell ourselves as being a regional organisation, and they come back and say, 'You look very Australasian to us; why should we be giving you money?' So if we have not overcome that, the answer will be no.

In other instances, they are basically biting at the bit to invest because they see—if we are looking at potential outcomes—that what we are offering them is not just us as an organisation but rather our individual members and their own mandates and their own powers and functions through which they will be able to feed in and produce effective and practical outcomes. So I am hopeful. The McArthur Foundation seemed interested. Unfortunately the Ford Foundation have done very badly at the stock market over the last three years. I understand that almost 25 per cent of their grants will need to be cut, so it is not the environment where we are likely to receive funding. The Mertz Gilmore Foundation has a largely civil society approach, so it is unlikely to fund. There are a number, though, that seem interested.

**Mr LAURIE FERGUSON**—Did I understand you say that you have a group of countries who are not admitted to full membership?

**Mr Fitzpatrick**—Yes.

**Mr LAURIE FERGUSON**—Could you go through them and the kinds of processes that occur there—how they would be upgraded and whether, in changing circumstances of nations, there has been a need to downgrade any previous members?

**Mr Fitzpatrick**—That is a really good point. The constitution of the forum allows for both. There are a number of institutions; the institutions are the members who are currently applying. In my analysis—and it is not my decision but the membership's decision ultimately—I do not think any of the new applicants will be accorded full membership because I do not believe any of them meet the minimum standards. In our constitution, we have a tiered category approach. As our second category, less than full members are candidate members. As we perceive it, is a waiting room for membership. A precondition of becoming a candidate member is that you need, using the Middle East process, to essentially establish a road map about how you are going to get there in terms of working towards the minimum standards. That would mean in a practical sense that the institution itself would say to our members, 'We will work with the forum secretariat on

the following types of issues’—that would be legislative because generally it is their legislation that is not in compliance—to seek to become fully compliant with the minimum standards.’ Once they become fully compliant, they can seek full membership. A practical example of that is Afghanistan. The Afghan Human Rights Commission was established by presidential decree. The presidential decree itself says that the commission should become a constitutional commission. The constitution is obviously subject to quite a dramatic political debate within Afghanistan. That process is due to be completed within a two-year time period. We would therefore not accord full membership to the Afghan Human Rights Commission but rather grant them candidate membership or indeed one lower than that, an associate membership, and request that the Afghan commission work with us in the development of whatever legislation or constitutional provisions might arise within the Afghan constitution.

The inverse is an interesting question: where a commission that was once fully compliant is no longer. An example of that would be whether there is dramatic legislative change to the institution itself, which would require it to be re-evaluated. We have in our constitution placed an onus on the institution itself, if it is affected by that type of change, to tell the forum membership and seek a re-evaluation or we have a power vested within the forum membership generally, on its own motion, to undertake an evaluation. An example of that is the New Zealand commission. They did quite a dramatic legislative change to that commission about 18 months ago, and they have resubmitted their application for membership to be re-evaluated to ensure that it is fully compliant with the Paris Principles. At first reading, I think it is fully compliant. In fact I think what the New Zealand commission are trying to do is lead the way and say, ‘This is open, transparent and good governance and, as an institution, we have undertaken a change and want to show that it is important that we are constantly monitored.’

The hard question, though, would be where an institution is not found to be compliant and is pushed back a category. Luckily, at this stage we have not had to face that. We have had a number of institutions that have been threatened by their parliaments with dramatic changes, and at this stage we have managed to be able to offset most of that through regional activity and support. Most recently, the Prime Minister of Thailand was threatening to remove a commissioner from the Thai commission. The Thai legislation requires a parliamentary vote to remove a commissioner; it is not a purely executive act.

**CHAIR**—Was the commissioner raising concerns about extrajudicial killings, by chance?

**Mr Fitzpatrick**—Indeed; the drug related matter. He had raised that within an international forum and had asked the UN rapporteur on summary execution, I believe, to pay a visit to Thailand. This had caused a bit of a stir in the Thai political context, and we rallied the troops, in essence. We got our commissions to write to the Thai Prime Minister, to advocate through their foreign ministries and to make calls on their local Thai embassies to signal concern and to strongly advocate that the Paris Principles and the independence of the Human Rights Commission would mean that it had an independent voice and could advocate these types of concerns both domestically and internationally. At this stage, as I understand it, all of those proposed activities such as the removal of the commissioner are now in abeyance.

**Mr LAURIE FERGUSON**—You list current members and those that you might be about to receive applications from. Can you give me a few examples of the current candidate members?

**Mr Fitzpatrick**—I think Afghanistan would be a candidate member, by virtue of there being quite a clear road map: they say that they need to become constitutionally enshrined within two years. The difference between being a candidate and having associate membership is the length of time we think it will take their institution to achieve compliance with the minimum standards. If it is a reasonable period—and that is undefined and largely at the discretion of our membership—they will be accorded candidate membership. If, indeed, it is not a reasonable period then they will be accorded associate membership.

In terms of the other members, I would say that the Iranian commission, for instance, would be likely to be associated as an associate member rather than as a candidate member by virtue of conflict between Islamic law and international human rights law. It is not a legislatively enshrined commission at this stage. It is one that was established initially under the Chief Justice of the Islamic Supreme Court and, as such, there were concerns about its independence. Nonetheless, for us it is an institution that does really good work within its political context.

**Mr LAURIE FERGUSON**—Pakistan does not seem to fall into any category. Does that mean that they do not have one?

**Mr Fitzpatrick**—That is right. We have been approached. The Ministry of Justice approached us with draft legislation previously, but there do not appear to be any current moves towards the establishment of a commission. There are other countries where legislation has been debated at length. It has sat in the Bangladesh parliament for many years, with no movement. There is a similar circumstance in Papua New Guinea. In those instances, we have provided support and it has produced no result.

**Mr LAURIE FERGUSON**—In contrast to East Timor, I think you said that in the case of Japan your assistance was unsolicited. What was the process that you undertook?

**Mr Fitzpatrick**—Informal, through approaches to government representatives either in international settings, which is the UN, or through non-government organisations by providing information to them about points that they may wish to advocate domestically about how the legislation could be improved. At this stage, I have to say that the government have engaged with us—it is not that they have ignored us—but their engagement is rather that they believe the legislation is compliant with the minimum standards and they therefore see no need for the assistance of the forum in bringing them, as we would see, up to the minimum standards. So there is a difference of view about how the legislation fares.

**Mr CAMERON THOMPSON**—You represent the Asia Pacific Forum. Are there other regional bodies—for example, one for the Americas and one for Europe?

**Mr Fitzpatrick**—At the governmental level there are quite extensive regional cooperation mechanisms and institutions in the other regions for Europe, the Americas and Africa.

**Mr CAMERON THOMPSON**—I mean at your level.

**Mr Fitzpatrick**—At my level? We are the leaders. There are incipient institutions in the Americas and in the African region that are modelled on us at the moment. The secretariat for the Americas region, which currently resides in Mexico, has asked us for, and we are offering,

technical assistance about how we moved from a rather informal setting under the auspices of HREOC providing secretarial support—I was once a staff member of HREOC. The forum at the moment is completely independent. We are controlled by our members. There was a process of transition and there were a lot of reasons why we took that approach. So we have been asked by the Americas association, which has its secretariat in Mexico, to assist it on the same process.

In Africa the secretariat currently resides in the South African commission, and we have been approached by the South Africans for the same type of assistance and advice, but it is less well developed.

In Europe, effectively there is a working relationship but no ongoing formal mechanism for collaboration. That reflects the relative development of the governmental system. In Europe, the governmental system is so good that the need for a system between national institutions is lessened. In fact, the national institutions participate in the governmental system. They will sit, for instance, in the European Commission or in the European parliaments and have discussions with parliamentarians at that regional level.

If Europe, for instance, engages in a dialogue with particular regions or particular countries—there has been a recent European Union dialogue on human rights with China—the national institutions of Europe will participate formally within that dialogue. In fact, of the two major issues of that dialogue, one was on torture and the other was on national institutions, so they were central to the dialogue itself.

**Mr CAMERON THOMPSON**—But surely, if you take Europe as an example, the development of government and good governance in some of those central European and eastern European nations is pretty embryonic.

**Mr Fitzpatrick**—Indeed.

**Mr CAMERON THOMPSON**—To say that the development of an organisation like yours is not at such an advanced level there because of the state of the government and the accountabilities of the governments is not really valid in that case.

**Mr Fitzpatrick**—I would even go further and suggest that some of the more traditional developed democracies also do not have these types of institutions or, if they do, they are at a lesser standard. For instance, there is what I would call the French model, which is entirely consultative. A model for such an institution would have 30 to 40 members and representatives of the parliament sitting on it as non-voting members. Its role in essence would be to influence governmental policy or parliamentary legislation. But it would not have an equivalent structure or stature or have institutional powers as the models for institutions in the Asia-Pacific region do.

There are a lot of reasons for that but it also reflects what I was trying to point out: if you have multiple avenues in which to seek redress for human rights abuses—and in the European system you obviously do at the national level through normal court systems but also, beyond that, through the European system, the European Convention on Human Rights and the European Court of Human Rights—there is less need often for those domestic institutions to be strong. But, in the Asia-Pacific region, the absence of that type of system has meant that the institutions

themselves are quite credible, large-scale institutions. The Philippines commission has 700 staff. It is massive and has regional offices everywhere.

We have substantive institutions in our region, and they are much more substantive, often, than those in the European system. In the African system, there is a mix between the French and Commonwealth models. In the American system, there are fairly substantive institutions as well, particularly in the Latin American countries.

**Mr CAMERON THOMPSON**—Is there any even embryonic move to have an international peak body for all of these various things? What efforts are made to communicate between all those different arms to determine that what we have is a uniform approach? Do we try to come to grips with what priorities might be in all those different regions?

**Mr Fitzpatrick**—There is indeed an embryonic organisation. It is called the International Coordinating Committee of National Institutions. It essentially has two roles. One is its working relationship in trying to provide a stamp of approval to those institutions that are legitimate as against those institutions that have been established by governments simply as window-dressing. There are a number of those, frankly, throughout the world. The relationship between the regional organisation and the international organisation is about making sure that both are clear about how to determine whether the institution meets the minimum standards. It is really a membership issue. That is the first role; the second role would be a relationship with the UN.

**Mr CAMERON THOMPSON**—Do you keep a list of what those individual member groups regard as local priorities within the various countries? Do you keep that and promulgate it?

**Mr Fitzpatrick**—We do. We have a fair amount of information on the web site about domestic priorities. Also, one of the things that is unique about the forum is that it goes beyond the domestic—that is, it determines priorities regionally and has the institutions say, ‘What can institutions do collectively to address human rights issues within the Asia-Pacific region?’ I use trafficking as an example. All of the institutions—all of our members—have said, ‘Okay, this is an issue of regional concern because it crosses nation-states; what are we collectively going to do about it?’ The joint project between India and Nepal is an example of what they can collectively do about it in a practical way. We are working with the Australian commission and the Thai commission at the moment in relation to the trafficking of Thai women into Australia, normally for prostitution related purposes.

The next major issue will be around anti-terrorism legislation. So, if a number of states across the region have implemented restrictive legislative proposals to combat terrorism which infringe upon individual human rights, what collectively can these institutions do about it? In a lot of instances it is not new legislation; it is old, possibly even colonial, legislation that is being reactivated or re-implemented, if you like.

**CHAIR**—Mr Fitzpatrick and Mr Clark, thank you both very much for your assistance to the committee this morning and also for your submission, which provides us with a lot of useful information. I am sure the committee has noted the ‘plea’, shall we say, in the text of your submission and in Mr Fitzpatrick’s oral statement. We will take that on board. I appreciate your assistance. There may be some matters upon which the secretary will contact you for further

information, and one of those would be the forum in Nepal, which I would like to get further information on.

**Proceedings suspended from 11.07 a.m. to 11.18 a.m.**



**EARLE, Mr Patrick, Director, Diplomacy Training Program****REDMOND, Professor Paul, Chair, Board of Directors, Diplomacy Training Program**

**CHAIR**—I welcome witnesses from the Diplomacy Training Program. 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 that request. Are there any comments you wish to make on the capacity in which you appear?

**Prof. Redmond**—In addition to my position with the Diplomacy Training Program, I am also a professor in the Faculty of Law at the University of New South Wales.

**CHAIR**—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 contempt of parliament. Thank you for your submission, which committee members have had an opportunity to examine. I now invite you to make some opening remarks before we proceed to questions.

**Prof. Redmond**—I thank the committee for the invitation to address it on behalf of the Diplomacy Training Program. With the committee's indulgence I might say some opening remarks about the program itself before my colleague Patrick Earle, who has recently joined the program as its executive director, addresses some complementary matters within the committee's terms of reference.

Let me speak first of the history of the Diplomacy Training Program. It was founded in 1989 by Jose Ramos-Horta, Nobel Peace laureate. Its genesis reflects his own experiences in wandering the lonely corridors of the UN in the preceding decade in the course of people's advocacy for the people of East Timor. His motive in forming the program was to assist NGO leaders and other civil society organisations by sharing his experiences with them to strengthen their own capacity and skills, to transform human rights and to strengthen the rule of law and democratic processes within the region. His conception of the role of the program was for education, not advocacy. I think the genius of the insight is that knowledge of international human rights law is an effective precondition to its operation and its application. Through education, norms in the books and international human rights covenants become operative norms that inform and shape societies.

From its inception, the Diplomacy Training Program has been linked and affiliated with the University of New South Wales—in particular the Faculty of Law. Emeritus Professor Garth Nettheim was a founding force in meeting Jose Ramos-Horta and extending to him the invitation to locate at the University of New South Wales. He has been a driving, guiding mentor to the program throughout. The program has been housed at the law school, which has provided support in-kind for its operations. UNSW Faculty of Law staff have been active as trainers in the program from the outset and have provided members of its board of directors. Jose Ramos-Horta was the director of the program for six years. He then became a member of its board of directors and at the moment enjoys the position of founder and patron. To the great benefit of the program

he continues to have a close personal tie with the program and to provide invaluable assistance to it.

The Diplomacy Training Program is constituted as a company limited by guarantee. It has a board of directors and an advisory council. It may be of help to the committee to outline the members of the board of directors. Mr Philip Chung is the manager of the Australasian Legal Information Institute. Ms Olga Havnen is the Indigenous director in the Fred Hollows Foundation. Professor Janet Hunt is an adjunct professor in international and community studies at Deakin University and a former director of the Australian Council for Overseas Aid. Dr John Pace is a former Secretary to the United Nations Commission on Human Rights and chief of the branch office of the High Commissioner for Human Rights. Dr Sarah Pritchard is a member of the Sydney Bar and a longstanding human rights advocate. Ms Louise Sylvan is the chief executive officer of the Australian Consumers Association and President of Consumers International. In addition, there are three members of the Faculty of Law on the board, including Professor Nettheim. The program has a small, dedicated staff. Patrick Earle, as I have said, has recently joined the staff of the program. In addition, there is an administrative officer, a program director and a fundraiser. They are all part-time positions. In aggregate, they amount to 2.3 full-time staff positions.

Let me talk about the experiences of the program. Since January 1990 there have been 13 annual trainings of about three to four weeks duration. Originally they were offered in Australia but have now been offered elsewhere in the Asia-Pacific region. There have been more than 20 short in-country trainings. The countries they have been in include Thailand, Sri Lanka, India, Nepal, Taiwan, Papua New Guinea, Fiji and Australia. The program estimates that about 1,000 human rights defenders from more than 30 countries have been trained in its programs. In all its offshore trainings the program works with a partner organisation. It is a joint operation in the recruitment of participants and trainers, obtaining funding, settling course content often with a local university partner. The content of the annual trainings is a distinctive of the program: its core lies in international human rights law, the use of United Nations institutions for the redress of international grievances under the covenants, lobbying and networking skills for human rights advocacy and the use of media, and increasingly Internet resources, at the local, regional and international levels.

I could in this context pay particular tribute to the work of the Australasian Legal Information Institute, a body which has developed a comprehensive database of not only Australian but also Asian and regional bodies of legislation and case law accessible across the region and internationally. I say so proudly because it is a joint initiative of the law faculties of the University of Technology, Sydney, and the University of New South Wales. Increasingly, it has become a central part of the training in accessing resources through the Internet through the good services and the generous assistance of AustLII. All training programs have a practical nature, in developing practical skills, but rest upon a solid academic foundation.

The program is really strengthened by having a wonderful faculty of international human rights lawyers with complementary skills, which are all provided on an honorary basis and in many cases for many years since its inception. It also has a body of specialised teaching materials. The goals briefly are: developing skills, strengthening regional human rights networks and building bridges between Australia and Australians and present and future civil society

leaders in the region. The program's submission talks about its operating principles. I will briefly state them again, because they are central and defining characteristics of the program:

1. Empower people to act for themselves.
2. Use local knowledge by setting up partnerships.
3. Respect the professional knowledge that already exists in the region.
4. Respect and build on the knowledge and experience that participants bring to any training.
5. Provide training that compliments existing education.

I would like to close by saying something about the funding of the program. Its sources of funding are course fees, international foundations and some donors. I have to say that it is increasingly difficult for the program—and, I suspect, for all First World NGOs active in human rights education—to attract international foundation funding for human rights education. The feeling is that we as a First World body should be able to attract that funding at home and that the funding is best put directly into Third World organisations. On top of that, those difficulties—difficulties for us at least—are compounded by the stock market break and the absence of available funding, as you have heard from the previous witnesses to this committee, to those foundations. The Diplomacy Training Program has access through the university to tax deductibility for donors through precatory donations being made to the university foundation, which have in practice found their way to the program. Nonetheless, the absence of a culture of philanthropy—at least for human rights education—poses a difficulty.

A further difficulty is the AusAID guidelines, which really look to the scope of one's external domestic funding base as a magnet for AusAID support with the result that—as our submission states—the program has received only very minimal funding from AusAID. We estimate that it is less than \$1,000 per annum on average. The program, therefore, endorses ACFOA's recommendation that AusAID needs to develop more opportunities for funding this form of human rights training in the region. We would also endorse amongst others ACFOA's recommendation that there be greater emphasis upon the role and needs of civil society organisations in human rights and governance and greater emphasis upon the role of education towards that end. Thank you.

**CHAIR**—Thank you very much, Professor.

**Mr Earle**—Can I echo Professor Redmond's thanks to the committee for inviting the Diplomacy Training Program to appear. I would like to begin by quoting from a message that the Diplomacy Training Program received on 3 May from a partner organisation we have been working with in the Philippines:

One week ago another indigenous person was abducted and killed by suspected military personnel but this has not been in the news and nobody seems to know what to do about it.

I quoted that because it illustrates one urgent dimension of the need for the sort of practical human rights education that the Diplomacy Training Program provides. Individuals and

communities at risk of human rights violations and the individuals and organisations that represent these communities do not need just to know their rights; they need knowledge and skills to be able to protect them and they need people to listen and to act.

That message from one of DTP's partners also illustrates that continuing violations of human rights remain a sad and pressing reality for many in the Asia-Pacific region and that often these violations of human rights are the result of unfair or unequal social, economic and political development. Equally, human rights violations threaten economic and social development and political stability within the region. The Diplomacy Training Program believes that human rights education in both a broad and narrow sense has a key role to play in preventing human rights violations and protecting and promoting human rights, even if it can take a long time to see its impact. The promotion of human rights is a long-term commitment and requires patience.

The focus of the Diplomacy Training Program is to enable and empower advocates to learn from the experience of their peers in the region so as to become more effective human rights defenders. As we have seen in East Timor and elsewhere, today's human rights defenders could be tomorrow's national leadership. Therefore, it makes good sense for the Australian government to support and invest more heavily in civil society initiatives and exchanges such as the Diplomacy Training Program and in working to defend and promote human rights in the region.

An increasing proportion of the Australian aid program is devoted to good governance. Few would disagree with the importance of good governance and good governance education. However, it needs bearing in mind that 'good governance' can be a problematic term. On the one hand, it can be seen as a way of talking about human rights without mentioning the term 'human rights' and without referring to any specific covenants or specific human rights—civil and political or economic, social or cultural—in which case its value as a way to promote human rights is questionable. On the other hand, it can be seen as providing a gloss or spin to public sector reform or economic restructuring programs that might be resented or opposed by civil society and that may have negative human rights outcomes.

It is suggested, therefore, that human rights objectives should be explicitly stated in good governance programs rather than being asserted broadly as desirable and likely outcomes of such programs. Being clear about human rights and other objectives is consistent with the principles of transparency and accountability. This is particularly important in the current climate where there is an increased emphasis on national security and antiterrorist legislation. Given the record of such legislation being used to violate human rights, bear in mind that in the Australian aid program there is an increased allocation of funds to these programs and to regional cooperation in this area and that this apparently comes under the terms of good governance. Human rights considerations and safeguards must be an integral part of any such security and antiterrorism programs in cooperation between Australia and its regional neighbours. Good governance and the violation of human rights should be seen as incompatible.

The effective protection of human rights requires both resources and political will. Australia, through its aid program and diplomatic relations, has a vital role to play in both regards. Human rights education initiatives have a vital role to play in informing both civil society and government about human rights. Human rights education aimed at civil society, particularly delivered through independent institutions and NGOs, can help civil society to claim and defend human rights more effectively. Just as important, however, are efforts to educate government

officials at a local and national level about human rights, because the effective protection of human rights requires governments at the local and national level to be responsive to human rights claims and complaints. Discrete and targeted human rights education and training programs are no doubt valuable. However, human rights education programs should also be integrated into country strategy processes and programs for AusAID, including their programs on education, as human rights education should be a part of their education sector support.

The process of developing bilateral development strategies and programs and the development and implementation of development projects offer a lot of opportunities to build human rights awareness, and this is particularly the case where the commitments to broad public and stakeholder participation in development program planning are implemented. These participatory planning processes are opportunities to sensitise communities and officials to human rights standards and responsibilities—opportunities for human rights education in a broader sense. This might require increased human rights training of AusAID staff and contractors and changes to the AusAID programming guidelines. It is also suggested that Australia more consciously promote dialogue between NGOs and government as part of its regional engagements and particularly around intergovernmental processes in the region such as the Pacific forum and APEC, as well as the meetings around the Asia Pacific Forum of National Human Rights Institutions.

A number of other submissions to the inquiry have highlighted the importance of focusing attention on the implementation of UN standards and on interaction with the UN human rights treaty bodies and reporting regime as an opportunity to build greater awareness of human rights in aid recipient governments and communities. The Diplomacy Training Program agrees and would note that the UN treaty bodies have highlighted that the reporting process should be viewed as an opportunity to promote greater awareness of human rights in civil society. We have invited NGOs to be an active part of the process.

All aspects of the reporting process call for resources and this might be one reason why, for example, not one Pacific state has so far submitted a report to the UN Committee on the Rights of the Child despite all of them having ratified the convention. So, in addition to helping to fund the broader and more timely interaction between regional governments and the UN treaty bodies, one practical and low-cost way for Australia to highlight the importance of the treaty bodies would be to refer to the treaties and the treaty bodies and, where appropriate, to their reports in AusAID's own country strategies and sectoral programs and in the strategies and programs of the Asian Development Bank, for example.

The importance of cooperating with others and learning from other's experiences has been a key element in DTP's work. It is just as important at an official level. The Diplomacy Training Program therefore believes that there would be merit in Australia hosting a regional workshop to bring together other bilateral agencies, UN agencies and NGOs to share lessons learnt to date and to look at ways to incorporate and coordinate future implementation of human rights education and good governance programs.

Finally, the DTP believes that its experiences over the last 13 years in working with partners in the region and seeking to empower individuals and NGOs in the region have taught us lessons that we would like to continue to share with AusAID and with others in specific AusAID human

rights programs and projects and in an ongoing dialogue with AusAID to more comprehensively integrate human rights into Australia's overall aid program and its country strategies.

**CHAIR**—Professor, in relation to the point that you make both in your submission and in your remarks about the difficulty in meeting AusAID guidelines, am I right in paraphrasing you by saying that, if an organisation such as yours is not attracting external funding from whatever donor base it might be, then AusAID is not prepared to provide funding?

**Prof. Redmond**—It is my understanding that AusAID's funding guidelines look to the quantum of domestic funding obtained to support a program. In the case of DTP, the modesty of its local domestic support is a barrier to obtaining significant AusAID funding. Funding more often comes from international foundations and international donors and therefore it does not, in my understanding, attract AusAID funding.

**CHAIR**—We heard from ACFOA earlier this week in Canberra and asked them about some of the suggestions that they had made in their submission, which include AusAID reviewing—to paraphrase them—the way they did business, in some ways. Graham Tupper, their executive director, advised that they were in fact quite happy at the moment with the progress that was being made on consideration of change of attitude and change of process. So perhaps that may reflect itself down the line favourably for DTP. We will see how that happens.

**Prof. Redmond**—We look forward to that, yes.

**CHAIR**—The committee would certainly want to stay in touch on that particular issue. It is not one that has been raised with us before, to the best of my knowledge. Mr Earle, you mentioned the suggestion of a regional workshop. Would you see that as some sort of evaluation process of how far we have come in the region in terms of the strength of the institutions and the effective delivery of human rights education and good governance education, particularly in the context of the UN Decade for Human Rights Education?

**Mr Earle**—I think that would be a very valuable part of the workshop. I think it is to recognise that a whole number of different institutions and agencies are involved in human rights education in the region and there are probably some very valuable lessons to be learned from sharing those experiences and then looking forward, on the basis of those experiences, to mapping out more comprehensive programs. Therefore, it would be very useful to bring together not just NGO experiences, such as DTP's and that of other NGOs within the region, but also AusAID's equivalents as bilateral donors in the UN agencies.

**CHAIR**—The Asia Pacific Forum of National Human Rights Institutions, who were our previous witnesses, were talking to some degree about some of the coordinating activities in which they engage, for example. Is that the sort of organisation under whose auspices you could imagine such a forum being run?

**Mr Earle**—I think it would be valuable for it to be broader than national human rights institutions. National human rights institutions should certainly be a part of that process.

**CHAIR**—Yes, I did not mean exclusive to them.

**Mr Earle**—It would be very valuable if it were done under AusAID auspices—the Australian government’s auspices—as a key leader in the area, perhaps in association with a UN agency.

**Mr CAMERON THOMPSON**—In your submission you advocate a process to train and support the people from within the areas affected by a particular problem. You give an example of a group of women from New Guinea who, as a result of being involved in your program, produced an extra submission. Given one man’s freedom fighter can be someone else’s terrorist, I would like to ask whether by engaging that process you run a risk of being seen to be actively destabilising—or seeking to destabilise—governments, as opposed to addressing an issue. I can understand that your argument may be about the issue, but it could be seen that by acting in this way you are actually making a conscious effort to attack a government. Is this of concern?

**Prof. Redmond**—Our submission refers to a process of refereeing participants, which is generally done in consultation with the local partner organisation with whom the training is being conducted. Where that is not a relevant refereeing body, the process is done in consultation with other NGOs who have some knowledge of that group. It is a delicate matter. The DTP has provided training for the Burmese government in exile over a number of years. From the perspective of SLORC in Myanmar, that may well be seen to threaten the established government. It is a delicate line that requires a judgment, but it is informed at the end of the day by the fact that the DTP’s human rights education program is in aid of the development of international human rights standards, the rule of law and the development of democratic processes. In a sense, that is the series of grundnorms around which training is offered. Through those filters, that judgment is made.

**Mr CAMERON THOMPSON**—So you have the ability to monitor the extent to which these people get involved. You are trusting them to a certain extent, aren’t you?

**Prof. Redmond**—You trust their background—but, of course, you cannot monitor their future activities. What one is offering is the training in advocacy that supports transparency, accountability, democratic principles and the living application of international human rights norms. We do not see those as being tools in themselves, with a destructive potential—they are not weapons of mass destruction; we see them as weapons of mass salvation.

**Mr CAMERON THOMPSON**—I appreciate that, and I strongly endorse the positive actions. I am saying that they can be easily perceived or presented in another way in some cases.

**Prof. Redmond**—I understand what you are saying.

**Mr CAMERON THOMPSON**—What if a person takes a wrong step? You may have trusted them to proceed down a certain path but they may have branched out along the way and you could be left with a situation where you have, perhaps in Australia, a government supporting action that may be seen to be off colour.

**Prof. Redmond**—There are biblical examples of Lucifer being a fallen angel, but I have to say that one does not look around DTP alumni and find a series of people whom the program is not proud of. In fact, the program is intensely proud of its alumni and what they have contributed to human rights understanding in the region.

**Mr CAMERON THOMPSON**—No pitchforks?

**Prof. Redmond**—No pitchforks.

**Mr Earle**—If I could add to Professor Redmond's remarks: one of the roles of DTP that we believe does contribute to regional stability and security is to encourage people to use peaceful advocacy and to make that peaceful advocacy more effective in human rights terms, using human rights norms and laws that all of the governments in the region have signed on to. We hope that we are far from contributing to the situations you are highlighting. We would be ensuring that people use peaceful avenues for their advocacy and that they become more effective in using the peaceful opportunities that are open.

**Mr CAMERON THOMPSON**—How do you monitor that amongst the people you are working with?

**Mr Earle**—One of the functions of the Diplomacy Training Program is to network more effectively with human rights advocates within the region. We have very distinguished alumni, who include some of the leaders of the human rights organisations within the region. Through that network, they are meant to provide a form of guidance and ongoing advice to people as to how they can highlight their issues to the international community. It is not a process of monitoring what each person does—just as no program, whether it is government or non-government, can monitor the activities of its graduates and where they go on to.

**Mr CAMERON THOMPSON**—Would you contrast that approach with a more mainstream approach such as HREOC and the formation of those sorts of bodies and continual advancement by stating and restating the desirable goals? You seem to be adopting a different path by trying to support people within those areas who are trying to argue from the inside out, if you know what I mean.

**Prof. Redmond**—The focus of the program is on civil society organisations and they take, as you know, myriad forms, organically growing and shifting in protean shapes. Yes, the program does follow that. Many of those organisations are involved in social change within their communities, for the most part seeking to institutionalise within those communities the spirit and the letter of international human rights standards in a region where, as you know, there is no regional human rights treaty and there are no mechanisms for judicial arbitration or enforcement when it becomes more problematic. I think this is probably the only region in the world in which there are no such regional treaty structures and mechanisms.

So it is one area in which civil society is particularly important: that process of realising that human rights have standards in practice. In that sense, it is on the cusp of change, with great responsibilities in civil society organisations. Having said that, as my colleague has said, you monitor the records people bring to training and you offer them training that supports the capacity to effectuate those international standards. We have not seen that as being a source of difficulty. In fact, what we see is a variety of leaders who have come from DTP alumni who shape that within the region. If it would be helpful, I could provide you with a list of a dozen or so graduates of the alumni training program, indicating the positions they occupy in civil society within a wide range of countries.



**Mr CAMERON THOMPSON**—Thank you.

**Mr LAURIE FERGUSON**—I have one question from the reverse side of the coin to Mr Thompson's position in regard to whom you assist. You mentioned Horta and historically, despite all his UN and European Community activities, he was aligned with an armed struggle and probably totally at variance with the position of various Australian governments. The example you gave was that of Burma, which would not be very controversial in Australia either on the Liberal or Labor side of politics. Would you be involved in assisting people with some kind of similarity to Horta, such as those in West Papua, Aceh or religious minorities in Bangladesh? Are there any more topical or controversial ones that probably continue that clear tradition set by Horta?

**Mr Earle**—I am very new to the position, but my understanding is that recent training programs have involved NGO leaders from West Papua with the intention of explaining to people the international mechanisms—human rights mechanisms and human rights law—that are available to them in order to protect and promote their rights. We would see that effort as being entirely consistent with the commitment of the Australian government to promote human rights standards and the observance of human rights standards within the region. Whatever the difference is over territorial integrity then there is a baseline where human rights must be respected in those discussions. We would see our activities as complementary even though the strategic environment might be somewhat different.

My understanding in relation to Aceh is that a recent Diplomacy Training Program course brought together two participants, for example, from Aceh: one who was from a Muslim background and one who was from a Christian background. The values of the course identified by those participants were the opportunity to meet, to share common ground and common experiences and to try to cross out some of the perceptions of differences that exist. One of the values is to try to provide a common language of universal standards.

We would see ourselves as providing that role, and that is a very important role in terms of long-term stability within the region. It is very pressing. I think we mentioned in the statement that we are seeing the resurgence of the use of internal security acts and antiterrorism legislation, which have in the past been used to arbitrarily detain and to make people more likely to be tortured. We understand that there are increasing incidents of that in Nepal, for example, at the moment. We really need to reaffirm the importance of fundamental values in the region in all of these cases. We do see ourselves as making a contribution in relation to that, but one that complements the commitments of governments in the region.

**Mr LAURIE FERGUSON**—Nepal is probably more of a razor edge example. Do you have programs there with groups that are basically unpopular with the current administration in the middle of the civil war?

**Mr Earle**—We would have to go back to see who we have trained from Nepal, but we have had participants from Nepal associated with civil society.

**CHAIR**—Thank you very much. Professor, it is interesting to note that, in my parliamentary capacity, I have met at least three of your alumni and turned a couple of them into friends.

**Senator STOTT DESPOJA**—Yes, but did you train Senator Payne?

**CHAIR**—In business associations. There is a big difference!

**Senator STOTT DESPOJA**—I had some questions, but now they have completely gone out the window, because what I want to pursue, Mr Earle, is your comments in your opening submission, which you have now referred to again with Mr Ferguson—that is, the implications for training, good governance and human rights in the region as a consequence of either the revival of or introduction of antiterrorism acts. You started to allude to what I wanted to get at—that is, how much harder is your job now? Will there be increased interest in the DTP? How important is the affirmation or the reaffirmation of those human rights right now?

**Mr Earle**—It is more important than ever, I think. There are reports that seem to be coming through on the email from the Philippines. There seem to be increasing numbers—again, we would have to check to see whether there is an increase—of reports of indigenous communities being once again subject to extrajudicial executions, to threats and to harassment. That is in a context of the various conflicts within the Philippines as well. Across the region, the awful prospect of a resumption of hostilities in Aceh is likely to increase the number of victims of human rights violations and, in some ways, make the work of the Diplomacy Training Program not only more pressing and urgent but also more difficult. If the focus is more on perceptions of the need to deliver on antiterrorism security, there has to be great care taken that that is not at the cost of the protection of human rights, which has been seen as a priority in the region up to now.

In terms of our funding, we think that it does not make us necessarily more attractive to give funding to because a lot of the emphasis that we are seeing is on issues around antiterrorism and national security. We think that human rights has perhaps not got the profile at the moment that it should have, but we hope that Australia's membership of the Commission on Human Rights would encourage the government and the Australian aid program to look at the sort of work that the Diplomacy Training Program does on ensuring better, more effective interaction between governments and civil society and their interaction with the commission. There has been a worry expressed by many NGOs about the state of current discussions in the commission and that it has not been the effective body for human rights in the last few years that it needs to be. Part of that is to do with the groundwork about how civil society and governments relate to the workings of the commission as the treaty body.

We think there should be an opportunity for increased funding for our work, but Professor Redmond and previous witnesses have given an indication that the funding environment in Australia for human rights education and for human rights activities is very difficult. There is no tax relief at the moment for human rights education initiatives, apart from for the National Committee on Human Rights Education, which is a tax deductible organisation. The foundations in Australia generally do not provide funding for this, so it has forced the Diplomacy Training Program to go to the United States in the past. The focus there has shifted because of the stock market and also because of the demand internally for more of their programs due to the new security agenda.

**Senator STOTT DESPOJA**—Again, this question reflects the comments in your opening statement: would you like to see not only additional funds for the purposes of human rights

education but also, as part of the antiterrorist security work which is funded by the additional moneys, an inbuilt human rights component or an emphasis on human rights education?

**Mr Earle**—Yes, I concur—and also human rights safeguards. A number of years ago Amnesty International raised concerns in relation to relationships between the Australian Defence Force and the training of the Indonesian special forces, the Kopassus, and the particular need for human rights safeguards there—just in terms of referring to past work. I think a human rights training component, as part of those programs, is essential.

**Senator STOTT DESPOJA**—Thank you.

**CHAIR**—Professor Redmond, perhaps we should talk to Professor Shearer about the importance of human rights education.

**Prof. Redmond**—Indeed.

**CHAIR**—You mentioned in some previous comments the lack of a structural mechanism in this region on human rights issues. What do you put that down to? Do you think it is harder to do here than elsewhere; do you think there is a lack of broad interest or support; or are there other reasons?

**Prof. Redmond**—It is really beyond my expertise to offer any kind of authoritative answer to that. There is a reference in ACFOA's submission which I think is part of the explanation—namely, simply the cultural diversity within this region, spanning from Fiji to China and Tibet and beyond. That is part of the complexity. Perhaps there is an absence of a strong cultural centrality of human rights within many of the societies within the region. In that respect, Australia is heir to perhaps a different tradition. Even in the Americas, one sees a much more robust structure for regional human rights adjudication and determination. I think they are some of the contributors towards that explanation. The absence of it simply highlights the importance of initiatives emanating from Australian organisations to support human rights education and the development of a human rights culture. It simply highlights the difficulty of the task and its importance in developing a respect for international human rights norms and their regional applications.

**CHAIR**—Thank you; I appreciate that. If there are no further questions, I thank both Professor Redmond and Mr Earle on behalf of the committee.

**Prof. Redmond**—May I make one closing observation?

**CHAIR**—Yes, of course.

**Prof. Redmond**—It is interesting to look at how other governments support international human rights education. I have not done research, but there is anecdotal experience that keeps coming to mind. The Canadian Human Rights Foundation is increasingly playing a role that counterparts the work of the Diplomacy Training Program that replicates in this region. It is very strongly supported by the Canadian government. Of course, a number of European governments, including that of Sweden, have bodies that perform well-known roles in relation to human rights education that we commend to this committee for consideration.

In relation to DTP, I have to report that it is the Norwegian government that has been the most generous of any government in its support for its activities. It is a country in quite a remote part of the world that has been a generous supporter of the program in the past. I would urge upon the committee the task to which I bring no labour but simply the question of the comparative study of government support in this area of civil society—human rights education.

**CHAIR**—That is an interesting suggestion, Professor Redmond. In preparing for this inquiry, we did seek a great deal of information in the region, in particular, in this area of human rights education. The secretary advises me that we are getting a submission, at the very least, from the Canadians, so that will provide us with some more information which I am sure will be of interest to all of the members. Again, I thank you on behalf of the committee. The secretary may wish to pursue further matters with you and, if so, will be in contact. We will send you a copy of the transcript of your evidence, to which you can make any necessary corrections to errors of transcription. Thank you for appearing today.

[12.01 p.m.]

**FIFER, Mrs Dimity, Chief Executive Officer, Australian Volunteers International**

**CHAIR**—Welcome. I advise that the committee intends to conduct today's proceedings in public although, should you at any stage wish to give evidence in private, you may ask to do so and we 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 contempt of the parliament. I now invite you to make some opening remarks before we proceed to questions.

**Mrs Fifer**—Thank you so much. It is a pleasure to be here. This submission is perhaps not the most extensive of those we have given to Senate and parliamentary committees, but I hope it is a succinct summary of our experience in and attitude towards this area. I am sure that everyone is well aware of the history of Australian Volunteers International, but I will reiterate some words of Alfredo Sfeir-Younis, Special Representative of the World Bank to the United Nations and WTO. They are about the value of volunteering and will give a foundational element to our belief that international volunteers are a form of community educators in human rights and good governance. I would like that to be a fairly strong theme for you to take on board. Alfredo Sfeir-Younis sees human voluntarism as a new set of values and perspectives that is about volunteer capital. He says it is:

... as important as—and perhaps even more important than—many other forms of capital participating in the development process.

He continues:

... it is the paradigm of human values ...

and:

As a paradigm based on human values and humanistic actions, it defeats all possible constraints and limitations, as it shapes our future reality as a result.

He says that volunteers internationally:

... are providing the services that the 'egotistic market' has decided to forget and disregard in the name of profit-making and other material gains ... Volunteers are the ones that correct the negative external effects of markets as these marginalise the poor, the aging, the homeless and those who have been living in absolute poverty for many generations ...

He then says that volunteering, in the international sense, is about:

'correcting market failures' and 'diminishing the transactions costs' in the economy. Volunteers ... help the aging population, by assisting them in health care at home ...

This is also a paradigm of services to the others ... Volunteers have the opposite behaviour of the market.

This approach allows us to target better the beneficiaries of projects and programs—and therefore improve dramatically the effectiveness of the development process. Given that the development resources available today are indeed diminishing in real terms, volunteers represent a guarantee in increasing the effectiveness in the application of those resources available right now.

...            ...            ...

From a political perspective, volunteers are the principal source of strengthening our democracies. Voluntarism is democracy at work, and through the exercise of volunteer work, our systems of decision-making and reaching out improve day by day.

Volunteers form a new network of decision-making and governance. A unique governance structure, which is mainly supported by free choices and non-market-dominated choices. An excellent example of what good governance really means.

That is the lead-in to one of the themes of our submission, which I hope came through loud and strong, and that is the fact that we believe it is more than just a patchwork quilt of projects and programs being thrown at this particular region by government dollars or attention; that it is actually about understanding the outcomes of good education. If we understand the outcomes, we can move backwards and discover what forms we need to look at.

Certainly, Australian Volunteers International was founded on the belief that education is a two-way process: it is about mutuality and the exchange of ideas and meaningful communication. It is not about us saying that we are the developed and everyone else is the developing communities or governments and that therefore we are good and everyone else is bad. It is about learning by doing. It takes time and commitment. It means being there for the long haul and building sustainable relationships, which mean that your other outcomes can come on through. Our major theme is to encourage the committee to give advice to governments about sound educational processes. If we get that right, we put into place and perspective our offering of a suite of programs and projects. I guess that is what has unnerved me with some of the programs to date offered by AusAID and other agencies.

Very specifically on human rights—and the word ‘intersectionality’ comes up in a lot of human rights or gender discussion—we believe that international volunteers, by being involved on the ground with communities at all levels of society, are educators, modellers or mentors of human rights and governance. As we have said in our submission, people often forget that the elements of human rights work go to respecting human rights, protecting, promoting and fulfilling. It is also about allowing people to enjoy human rights. Just to see that the infrastructure or legal apparatus is there is not good enough. It would be very rare for any of our volunteers not to be involved in the modelling of human rights perspectives in the way that they work and also modelling good governance approaches. While we can give you any number of case studies about particular projects or programs, it is that wider commitment to developing relationships over a long term which we believe empowers community and promotes the benefits of good human rights and governance.

With the governance issues, we get concerned by communities perhaps getting the impression that either aid or other foreign policy is about bringing other governments up to a standard determined by another. Most of our work is about strengthening civil society; a lot of our volunteers are in levels of government—district, province, whatever it might be in the particular country. We believe that there are multiple roles for nonstate actors in community affairs, and a lot of our work is at the very practical level.

While I think it is absolutely imperative to have the infrastructure for human rights and governance, I would encourage the committee to understand that supporting people in how they live their daily lives is about empowering communities. We have found—and in my role as I move around the Asia-Pacific region and visit volunteers I find—that a number of local NGOs are struggling to be able to access overseas aid programs, including AusAID programs; they want very practical needs met. It is a real catch-22 situation when you meet with someone up in the PNG Highlands or in a community in a remote region of Cambodia or wherever it might be. Small community based organisations who are modelling the exact outcomes you are looking for want more than the ability to access infrastructure like photocopiers et cetera but they find it very difficult to take part in the programs.

One of the things I am aware of with the background that I have come from is the resource-rich way a lot of our NGOs operate within the Australian community. Our communities have libraries, resource centres and neighbourhood houses. I know that, even with the rich resources available in our community, many of us bemoan the ability within Australia to move human rights and governance, but overseas the ability of ordinary people and ordinary NGOs to access such resources is very low. I encourage the committee in its recommendations to be as practical, down to earth and community based as possible, notwithstanding the need perhaps for regional infrastructure forums et cetera. Please do not forget that at the community level it is really very basic. The value of our volunteers in people-to-people relationships is strong, but a good level of resources and infrastructure is desperately needed.

I encourage the committee in its recommendations to understand the value of international volunteering to meet the very aims and objectives you are about. I note that the AusAID budget has a tendency not to increase international volunteering, and I think more consideration should be given to its value. I would like this committee to understand that we need to move from a patchwork of projects only. That is not a good reflection of what education and good governance is all about.

I encourage the committee to ensure that human rights and governance issues are more accessible at the local level. I would also encourage the committee to find practical ways for more networking to happen between local NGOs and NGOs in Australia. It might be between peak bodies like PIANGO, the Pacific Islands Association of Non-Governmental Organisations, which is a struggling peak body of NGOs. How can we get them better connected into NGOs and peak bodies in Australia so that they share in building sustainable long-term relationships? How can we get peak bodies to work in conservation or business development with community service organisations connected with organisations here in Australia? The government just needs to take a facilitating role because organisations can look after themselves. We believe that this committee is talking about our soft-power responsibilities as a medium power in the globe, and we encourage you to be practical and base your recommendations on relationship building and modelling.

**CHAIR**—Thank you very much. Before sending a volunteer anywhere, the Asia-Pacific area or anywhere else, what human rights training information and guidance do you give them?

**Mrs Fifer**—It is on two levels. In our pre-departure training programs, which happen four times a year, our volunteers have a week's worth of pre-departure seminars before departing. Certainly, one of those mornings covers the program area of human rights awareness. It is about a very basic level of respect and attitudinal change. It is about understanding that human rights is not so much about legal jargon and human rights compliance with international obligations and responsibilities but more about respect for all people as human beings and allowing them access to the resources they need to empower them to live their lives and to contribute to their society.

If a particular project, program or job role to which a volunteer is going is more heavily involved up-front with human rights work, whether it is in the Philippines or anywhere else, they get very specific advice as to their actual job role. For example, in June this year we are sending a young woman to the Philippines whose background is in that area; she would have been selected on her competencies, skills and expertise. But all our volunteers are very aware of their cultural baggage in that they come from an Australian community as well as of international human rights obligations and attitudes. Our program is based very much on reducing cultural distance and on respect. So for our volunteers it is as much about what they learn of how human rights intersect with the cultures in which they live as it is about the very great difficulty of living out human rights values and governance values. To be honest, I think that is coming from a slightly different perspective to those of other consultants or people who deliver programs and projects.

**CHAIR**—Do you do that pre-departure training in-house or do you bring in human rights experts to do it?

**Mrs Fifer**—A bit of both. But we have been going for five decades now, so there is a high level of expertise already in-house for that.

**CHAIR**—You mentioned that you were 'unnerved' by certain sorts of programs offered by AusAID, without giving any specifics. What did you have in mind?

**Mrs Fifer**—You might want to wind back. Was that my reference to a 'patchwork quilt of projects'?

**CHAIR**—No, it was before that. If I recall correctly, you were talking about concepts of imposing one set of values on a different community or culture. I wrote 'unnerved by programs offered by AusAID' on my notes, to remind me to ask you what you meant.

**Mrs Fifer**—I suspect it is about an overview gained from watching the impact of AusAID programs and projects when you are on the ground. Certainly I would encourage the committee to be talking to recipients of some of these programs, for example, in Papua New Guinea. When you spend time talking with people who are at the receiving end of a particular program or project—which may go for 12 weeks, for example, training people to have certain outcomes, whether it is public service capabilities or what have you—it is always intriguing to speak with the volunteers on the ground who live with the people who have gone through that program before, during and afterwards to say, 'What was your experience of that program? Was it really



useful? Did it match your needs, or did you believe that you had to attend this particular training program in good governance or human rights as proof that you will then be a recipient of ongoing funding or aid?' So it is about the whole environment within which AusAID programs are delivered.

I am not sure that AusAID in its evaluation takes seriously enough the context and the environment within which it is delivering some of these projects, which are just patched into different communities as if they have long-term benefits. So that is where the 'unnerving' is coming from, Senator. I do not think that at the Australian AusAID level we are doing a sufficient amount of research and evaluation to ensure that we are getting the outcomes that we really desire or that we are not getting unintended consequences.

**CHAIR**—That is interesting; we could pursue that for some time. In recent discussions—not with AusAID but with various NGOs—I have been heartened by the level of positive feedback from NGOs in relation to their connection and engagement with AusAID and how they think things are progressing constructively. So we might pursue that at a further point.

**Mrs Fifer**—When you are involved in an organisation that has been going for a long time—for example, we have been in Papua New Guinea since 1964—it is that sort of perspective that we bring, as we watch people who perhaps have been experiencing aid for four decades. We have very positive experiences from year to year, but a 40-year perspective is something different again. That is what I am encouraging the committee to look at. What are the long-term impacts of the way that aid is developed and projects are configured?

**CHAIR**—That is not our brief for this inquiry, which makes it—

**Mrs Fifer**—It does make it very difficult, but that is what I would be recommending to people. For agencies like ours—and there are any number of others—which are in there for the long haul and which just watch themes come and go, we are trying to say: 'Can you keep that perspective as well?' It is not just a matter of a five-year theme on good governance or on whatever it might be. Understand it—

**CHAIR**—It is, in this context. What we are talking about here, for example, is the UN Decade for Human Rights Education and good governance education specifically in relation to the Asia-Pacific region. So we do come with a very specific brief, which probably makes us drop in from on high, as you say, to examine this issue and then move on.

**Senator STOTT DESPOJA**—I think that is a useful point, because this is a theme for 10 years—unless it goes formally for another decade. Obviously good governance and human rights issues continue. You are right; that is what we are charged with. I might go back to the funding, because I was also interested in what you meant by 'unnerved'. I think it was in the context of the practical delivery. It was after you were talking about the resource-rich, if you like, circumstances of some NGOs. I use 'rich' with difficulty, but you know what I mean. The funding mechanisms we were talking about earlier with the previous witnesses related to the fact that, due to certain AusAID guidelines, it may be difficult for some NGOs—maybe those involved in good governance or human rights education—to access AusAID resources.

**Mrs Fifer**—That is what I was referring to before, yes. At different times I have been sitting with organisations in the highlands of PNG or in Cambodia or Indonesia and have told them that there are ways to access high commission funds. An embassy or a high commission within a country usually has \$5,000 to \$10,000 it can grant, and organisations can get small amounts of money. Or I might say to them, ‘Did you know that AusAID have amounts of money up to \$20,000 in-country that you can access?’ Then when you talk to the people on the ground and ask, ‘Why aren’t you accessing these things through AusAID or through the embassy in-country?’ they say, ‘Have you ever seen the number of forms that you have to fill in?’

When you talk to people on the ground, you find out that that is the catch-22 they are in. They say, ‘We do not even have the resources. You have to write in Australian Public Service speak and we want to be trained in that to get into the system.’ Sometimes they have to ask for a volunteer just to write submissions to the UN, the UNDP, the World Bank or AusAID. Instead of being able to have funds to support their organisations to serve their communities, they are spending time thinking, ‘How can we increase our infrastructure just to access aid funding in-country?’ Their whole life is about reliance on international aid. It is a complete catch-22. That is what I was talking about when I said ‘unnerving’—the language that you need to write these submissions and the experience of people on the ground in local communities. It is just such a crying shame.

**Senator STOTT DESPOJA**—Thank you for that clarification. That then leads to the issue the previous witnesses were alluding to: potentially a change of the criteria. You are actually talking about the process. It is not that people miss out because they do not meet the standards or requirements; you are talking about a change in the administrative process.

**Mrs Fifer**—Exactly—allowing it to be more accessible to local NGOs. For example, I have met any number of local NGOs in Papua New Guinea who are trying to strengthen civil society. They are quite stunning people who are serving their communities in service delivery and all the rest of it—very sophisticated people—yet their infrastructure and resources are so limited compared with even a neighbourhood house here in Australia. We need to find ways for them to be powered up in terms of their infrastructure, resources, staff numbers et cetera. They are unable to access foreign embassy funds or AusAID funds. When you are sitting on the ground, that is where the strength can happen. For them, getting a volunteer is a very cost-effective thing to do, but really the outcome is about strengthening those very local organisations. All of us know the sorts of organisations we are talking about; it might be a youth mediation service with three people in your local community. They are really struggling in this region, and we need to find ways to help these groups, who are doing fantastic work, so that we can say, ‘We are there with you.’ It is a very practical thing.

**Mr CAMERON THOMPSON**—You say in your submission that ‘strengthening civil society should be seen as an important target for the aid program, rather than simply an alternative mechanism for aid delivery’, and then you continue on with that theme. I just wonder if you can give me two practical examples of something that was strengthening civil society and something that was just an alternative mechanism for aid delivery and tell me why the former was so much better. I could not see necessarily what the difference would be.

**Mrs Fifer**—It may be useful, with the permission of the committee, to give you a couple of case studies in-country; we are working in 42 different ones. The major theme is that it might be

better to build the strength of organisations—I am hesitant about naming particular civil society organisations across the region but I mean very practical ones, such as women’s homeless services or family resource centres in small villages et cetera—as opposed to giving money to NGOs to deliver the services. Why not, in strengthening a society, ensure that local NGOs are strengthened to deliver their own services to their own communities?

It is a bit off the topic, but in the Afghanistan project at the moment we have 22 Australian volunteers. I would like to congratulate AusAID for understanding that it was probably better for them not to put money into international NGOs for their program a couple of years ago but to support Australian volunteers to go into local Afghan NGOs that had been hanging in there for years with very sophisticated, professional people. The AusAID dollars went through AVI to send volunteers to work with local NGOs, as opposed to giving the dollars to international NGOs to run the programs. It might seem a moot point, but that is really getting a number of outcomes: you get the services, plus you strengthen the role of local communities to look after and support their own services in their own communities.

**Mr CAMERON THOMPSON**—I understand that and I can see the value in that, but wouldn’t there be occasions when the alternative would be true? What would be those circumstances?

**Mrs Fifer**—Rather than jumping in and guessing, I may have to take that on notice.

**Mr CAMERON THOMPSON**—Thank you.

**Mrs Fifer**—It is probably a combination. I am just encouraging people not to forget that your first point of call is always supporting local people to look after their own lives and their own communities, as opposed to other layers coming on board.

**CHAIR**—In your submission, quite early on, you say:

Given the technical complexity of many human rights issues, these can tend to be beyond the comprehension of most people without a legal background.

I think that is an interesting contention because some people would say that we are in fact talking about fundamentals, basics, that are not so complex at the foundation level. Certainly the complexity builds as you go deeper into it. But, in terms of the foundations, I am not sure that I would want to advocate that everybody who is involved, for example, would need a legal background to comprehend the obligations, the responsibilities and the rights that we are talking about.

**Mrs Fifer**—Our point is that only very few of our volunteers would have very specific human rights roles when they go overseas. The vast majority of them are ordinary Australians who go with a perspective of human rights.

**CHAIR**—That is why I am asking the question. It was not clear to me whether you were talking about the position in which your volunteers find themselves or the position of the people with whom they are working.

**Mrs Fifer**—No volunteer would be chosen to occupy a role or a position description that needed a technical or a professional skill base understanding of human rights issues. What we were saying is that the vast majority of our volunteers are working with non-government organisations and they are bringing human rights to life at that local level. They do not need to be talking the jargon in their daily work lives.

**CHAIR**—Because it is basic, isn't it?

**Mrs Fifer**—Yes, exactly; I could not agree more.

**CHAIR**—You said you thought there was a role for government—I assume you meant the Australian government—to ensure that human rights and governance issues are more accessible at the local level. Could you expand on that as to exactly what you mean?

**Mrs Fifer**—That probably came back to the point before about having a perspective on the outcome and the consequences on the ground of AusAID, human rights and governance training programs, whether they are actually working on the ground and whether local people are able to access them. That is why, I guess, I am encouraging the committee to speak with a number of organisations that, if you were to look at a community or a region, you would be hoping would be building their governance capacity, education and understanding, and you could ask them, 'What is your experience of receiving a program or project or, if you are outside that loop, what is your experience of being able to access that? What is it that you would like to see and what do you really need?' That is what I am referring to there.

**CHAIR**—Finally, from me at least, you talked about the networking of NGOs in the Asia-Pacific and in Australia, suggesting that the government just needs to play a facilitating role. In terms of government support in the region, AusAID in its bilateral relationships works government to government; organisations such as the Human Rights and Equal Opportunity Commission work commission to commission; and the Asia Pacific Forum of National Human Rights Institutions—which is supported by the Commonwealth government, amongst a range of other donors, which we went through with Mr Fitzpatrick this morning as part of his plea process, as he described it—does likewise. Do the peak body ACFOA, of which AVI is a member, have a role in networking NGOs in the Asia-Pacific and Australia?

**Mrs Fifer**—I think that is a very interesting point, and ACFOA will be intrigued by my response. I would say that they would have a role for the bodies that are appropriate to them, but I would have to be honest—and ACFOA are aware of this—and say that it is the other peak bodies not in the ACFOA sector that need to be taking their responsibilities a lot more seriously, and the government needs to encourage that.

**CHAIR**—Who do you mean?

**Mrs Fifer**—If you are working with environmental organisations across Asia and the Pacific, I would be encouraging Greening Australia and the Australian Conservation Foundation. If you are working with organisations that are delivering family services, I would be encouraging ACOSS to take more of a responsibility to link up and support organisations across the Asia-Pacific. If you are working with business, why isn't the Australian government encouraging the Business Council of Australia or the Australian Chamber of Commerce and Industry? I think

there is a wide range of peak bodies within Australia that we are not encouraging to build long-term sustainable relationships with their counterparts at all different levels in the Asia-Pacific region. Everything seems to be funnelled through the development peak body, and I find that amazingly too narrow.

**CHAIR**—Sometimes that is because that is the reputation and the role they try to acquire for themselves. It happens by virtue of that. That is not a criticism; it is just an observation of how it tends to work.

**Mrs Fifer**—I know.

**CHAIR**—I will give you an example: the Murray-Darling commission works on the Mekong on riparian issues with a range of the country-specific bodies that also have riparian responsibilities along the Mekong, which must be the most extraordinary and phenomenal challenge. They have built relationships in that context. Is that the sort of thing you mean?

**Mrs Fifer**—Absolutely.

**CHAIR**—I know they are funded by AusAID for some of that work.

**Mrs Fifer**—Exactly. A number of years ago, the Norwegian agency Fredskorpset moved from traditional volunteer-sending and development projects to facilitating long-term relationships between organisations. For example, if I went to Port Moresby and I were to look at family services, I would be coming back home and trying to set up a relationship between, perhaps, Anglicare, a Catholic social service or Mission Australia and local organisations, letting them build the long-term relationships with staff exchanges—people coming backwards and forwards—and perhaps facilitating with money for a volunteer. I believe that we can get a lot more synergy, cost-effectiveness and long-term sustainable governance training by really getting those people connected, not just through the narrow funnel of development projects and programs but through the widest breadth of the Australian community. The corporate, government and NGO sector should be connecting with their counterparts overseas. I think the benefits would be there for a long time.

**CHAIR**—I am glad we fleshed that out, because I thought you were only talking about overseas aid and development based activities.

**Mrs Fifer**—Absolutely not.

**CHAIR**—It has been a useful discussion.

**Mrs Fifer**—It is about development education in the Australian community; you do not just access relationships overseas through the aid budget, the trade budget or foreign policy and development.

**CHAIR**—That is a valuable point.

**Mrs Fifer**—It is a huge promotion that AVI needs to get across, but I would encourage the committee to get it across as well.

**CHAIR**—On behalf of the subcommittee, I thank you very much for appearing before us today, for AVI's submission and for the elaboration you have made on that submission in your remarks. When we send you the transcript, you can make any necessary corrections of transcription. I would also ask you to examine the sentence in which you were talking about being 'unnerved'; I am not sure that we ended up with exactly the right interpretation. If you would come back to us on that, I would be extremely grateful. If there are other matters on which we need additional information, the secretary will be in contact with you. Thank you for your assistance. Before we move to the next group of witnesses, we will authorise the receipt of three exhibits.

Resolved (on motion by **Senator Stott Despoja**):

That, pursuant to the power conferred by paragraph 16 of the committee's resolution of appointment, this subcommittee authorises that exhibits from the Human Rights and Equal Opportunity Commission, the Asia Pacific Forum of National Human Rights Institutions and the Diplomacy Training Program, numbered 8, 9 and 10 respectively, be received as evidence to the inquiry into human rights and good governance education in the Asia-Pacific region and authorised for publication.

[12.36 p.m.]

**LAUBER, Ms Sabina, Member, Australian Lawyers for Human Rights**

**McMURRAY, Miss Sophie Ellen, Member, Australian Lawyers for Human Rights**

**CHAIR**—I welcome you to the subcommittee. The subcommittee 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 subcommittee will give consideration to your request. Although the subcommittee 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 contempt of parliament. I thank you for your submission on behalf of the Australian Lawyers for Human Rights and I invite you to make some opening remarks before we proceed to questions.

**Ms Lauber**—I will be very brief. I want to address the key points that we made in our submission and state that we did not want to cover the entire area that you are examining. We wanted to look mainly at the experiences that we and our members have had doing this kind of work in the Asia-Pacific region, focused predominantly on human rights and good governance education with a legal flavour, particularly law reform issues using law reform as a tool for human rights. I have done quite a bit of work in that area. Most recently, I have just come back from Indonesia. I worked with several organisations over there in this area. A lot of what is in this submission comes directly from my experiences in that work—what I see as some of the flaws but also some of the good things going on there.

Interestingly, I agreed with a lot of the comments made by the last speaker. I think that the process of institutional strengthening and capacity building—creating strong institutions in the Asia-Pacific region, whether they are civil society institutions or government institutions—is a precursor to the realisation of human rights. It is part of the human rights education process. So if we see that as good governance, and good governance as the tool for creating strong institutions, it is a fundamental part of the human rights education process.

In Indonesia I saw a lot of international donor governments scrambling to give aid and scrambling to give organisations human rights projects to implement. However, these organisations were in buildings where the roof leaked and they were in danger of electrocuting themselves on the electrical equipment. They had computers that could not be networked and which would break down. They did not have the institutional capacity to deliver those human rights programs. So they would go to human rights training where very eminent professors and professionals in human rights education would teach them about international conventions and then they would go back to their leaking offices and be entirely incapable of implementing that work. I think that is a very real issue that we need to address.

Also, if we see law reform as a key tool of implementing and realising human rights, we need to teach people the step between learning about human rights and implementing human rights—things like: what policy means; how you do policy; how you create policy; how you implement

policy; how you draft legislation and enforce it; and how you create partnerships of enforcement. A lot of that is not coming through.

Out of all the donor governments that I met with in Indonesia, I have very high praise for AusAID because AusAID was one of the few donor organisations that actually gave money for institutional strengthening and capacity building. I would like to see more and I certainly think that there is a need for more. In our submission we suggested such things as one-off payments for the purchase of computer equipment and skills training for users of IT systems. We also submitted that we felt that English language and computer systems have been the two most revolutionary things to happen in the last decade in relation to human rights. If somebody in remote Aceh can speak English they have a much higher chance of their human rights violations being heard than if they speak the local dialect. If they are able to access the Internet and send an email they also have a much higher chance of being part of a human rights enforcement process. So, even though people might not see that as a fundamental part of human rights education, we submit that it is.

I want to reinforce the issue of corruption. Corruption is absolutely endemic in the Asia-Pacific area and if we shy away from it and pretend that it does not exist then it will never be dealt with. Good governance training and institutional strengthening have to have an anticorruption component, and any organisation that is dealing with human rights has to understand the capacity for their own organisation to engage in corruption. So civil society organisations and human rights commissions—which, as employers, get access to funding—should have financial transparency, accountability to their staff, and proper employment procedures. Without those processes in place and without proper communication and decision-making processes corruption can very easily filter into the system. So that reinforces my point that good governance components and practical good governance strategies are absolutely fundamental to the realisation of human rights and they are fundamental parts of human rights education.

I also want to reinforce my favourite topic, and that is the rights of women. Too often in these programs I see gender as an add-on component. A very significant national donor—not AusAID—that I spoke to in Indonesia, said, ‘We are not doing gender this year; we have done that for the last three years. We will not be doing that for at least another decade.’ Gender does not come and go. Women make up the majority of the population and are by far the poorest and most disadvantaged sector. If, in this day and age, governments are not yet capable of fundamentally integrating gender components into education or any kind of development aid project then the results cannot be effectively sustainable.

Women run households. Women look after the poor and the sick. Women tend to the children. If we cannot integrate the human rights of women into these programs, they are not going to work. A very good example is that some of the work I have been doing in Indonesia is on the mass rapes that happened in May 1998, when thousands of Chinese women were severely sexually assaulted, raped or murdered. There will never be a trial for those rapes. Nobody will ever be brought to account for that, because there is no understanding within the government system in Indonesia of how women’s rights integrate into the legal system. There is still a situation where the police will impose curfews and any woman found on the street in certain areas after 11 at night will be imprisoned, because it is assumed that she is a sex worker. There is



no fundamental understanding of how women's rights fit into those things. I am finding that the human rights education does not address that properly.

Another point I would like to raise, which I do not think we made very well in our submission, is the need for partnerships. A lot of the feedback I got—particularly in Indonesia but also in other countries I have worked in, such as South Africa—is that organisations working in human rights do not just come and go. They exist because they fundamentally have a need in this area. They will be around for another decade. They do not want to be doing short-term, ad hoc training or projects with Australia. They want to be a part of an ongoing partnership. They want a year after the training to be able to pick up the phone when a problem comes up and ring someone they know really well or be able to send an email to someone they know in Australia and say: 'We really appreciated the work you did. We have come up with this problem. Can you help us? Do you have an idea?'

I think that is important for two reasons. One, it assists them. It shows that human rights is not something we do one day and forget the next; it shows that it is part of an ongoing process. Also, it helps to create a better understanding of Australia and Australian culture. Australia is not the most favourite country in Indonesia at the moment, but when you build these long-term relationships with key organisations in Indonesia that are working in human rights you also create better cross-cultural understanding—which I think is really important, particularly at this stage in our history.

Cross-sectoral partnerships are also very useful. I think that in the Asia-Pacific there are a lot of businesses starting to do their own human rights work and almost quasi-education, because they need to do that to be able to operate there as a business. That is done very separately from the work that governments are doing. It would be interesting to try to hook up some of those partnerships. For example, I know that Pricewaterhouse in Indonesia is doing a lot of anticorruption auditing and is assisting corporations to develop skills against corruption. Training civil society organisations in those skills would be fantastic, and I really see that the private sector is best versed in those skills to be able to do that training.

Also in our submission we talked about specific submissions or suggestions that we would like to see in education: about educating all levels of society and about tailoring the education and giving it a very practical focus. There is an important point I want to make here. A lot of Australian organisations that are best placed to give practical human rights education—for example, government departments who do policy and implementation work—are suffering from what I call 'study tour fatigue'. They get each year at least 40 or 50 study tours wanting to come through.

I worked for the human rights commission for several years and I had study tour fatigue for a while there. It is a problem and I do not know if some of the AusAID programs really address that. They set up the idea of a study tour and I do not know how that works, particularly when it is a state based government that is not part of the program. That is something that is worth looking at. Some of the departments are starting to say, 'No, we don't actually want to see you any more.' Some of them are starting to charge quite substantial amounts of money to address the study tour. That is an issue that I thought I would raise but which I am not really in a position to comment on. That is all I would like to say.

**CHAIR**—Thank you very much. Miss McMurray, do you wish to add anything at this stage?

**Miss McMurray**—Yes. I would like to talk to the human rights review that I outlined and drafted as part of our submission. It is a system which the Australian government or any NGOs, international or regional, might wish to incorporate as a system according to which they can collect sufficient veritable information on human rights, education and good governance in the region. Also it could help the Australian government or NGOs help to identify particular achievements or obstacles to further progress; for example, particular achievements with allegations of corruption or any particular human rights relating to civil and political rights or economic and social rights or, in particular, the rights of women as a precursor to development. Similarly it could also be used by any international or regional government or non-governmental organisation to promote human rights education as a practical tool and to help monitor progress made in the Asia- Pacific region towards the realisation of the goals of the United Nations Decade for Human Rights Education. It is a system that I developed while I was working for a London based law firm.

I was based in southern Africa working on a number of multiparty claims against English multinational corporations, collecting and verifying information on allegations of human rights abuse by those companies. Another case, which I think illustrates the points that we are trying to make, particularly relating to corruption and access to the Internet, was the case I was working on in Kenya where we were representing 500 Masai and Samburu people. They were suing the British Army for alleged British bomb related incidents that had killed up to 100 people in the past 50 years and had severely maimed and burned and injured hundreds of young children of the Masai and Samburu people. These people are nomadic and had been walking through the areas and finding live ordnance that had not exploded; as a result it would explode and injure and kill these people.

I was in a position where we were called to Kenya by an NGO on the ground called Osiligi, who had been working there on this issue for about six years and had not got past the local towns—these far-flung towns way up in the northern part of Kenya—until we came in. I was based there for three months and provided the organisation with access to the Internet and implemented this system that I have described in the review. I helped teach the organisation how to collect sufficient information and then to verify that information on allegations of human rights abuse. It was particularly important to be able to verify this information in Kenya, Kenya being one of the most corrupt countries in the world and corruption obviously being an important issue throughout the Asia-Pacific and in many developing countries. We need to at least monitor the eradication of corruption as a precursor to development and human rights.

It is a system involving a six-week process that starts, as I explained here, with a public meeting. We call the individuals alleging the incidents and start to collect individual information, during which time we would start to collect information from third parties and the greatest array of sources to then help start to verify the information and substantiate their allegations, which obviously was really important to be presented as evidence in the claims against the British Army. Having implemented the system in Swaziland in a case where we were working for a thousand people, then in South Africa collecting information on 10,000 asbestos related claims, and then perfecting the system in Kenya, it proved to be very successful and it could be used in education or by NGOs. As a result of that, we satisfied those claims on behalf of the Kenyans

and the South Africans. I thought I would like to present that to you as a very practical tool to help in education and human rights.

**CHAIR**—Thank you very much. We appreciate your on the ground, grassroots experience and your bringing that to us today. We also appreciate the innovative suggestions that you have made.

**Senator STOTT DESPOJA**—I do not have as many questions as I thought I would have, partly because you have pre-empted a number of the things I was curious about and also because your submission is comprehensive. But I would like you to elaborate on the issues to do with women. Could you perhaps talk about some of the mechanisms that you would recommend? I note that, in your submission, you talk about a minimum proportion of people in the program being women. Do you have other practical recommendations that might be particularly good for the committee to hear?

**Ms Lauber**—Do you mean in relation to guidelines for human rights education and ensuring that gender issues and women's rights are properly catered for?

**Senator STOTT DESPOJA**—Yes.

**Ms Lauber**—I did make some suggestions. Having a minimum proportion of women in any human rights training program is important. At the moment I am teaching in the Indonesian-Australian specialist training program, or IASTP.

**CHAIR**—We met a significant number of their participants yesterday in Canberra, who summarised it.

**Senator STOTT DESPOJA**—Was that only yesterday?

**Ms Lauber**—They are a good bunch. I think one-third of those participants are women. What has happened with them is what I have experienced with most of these training programs. The women will come to me during the breaks, and whisper to me very quietly about their experiences and exactly what the situation with women is. I think that, merely by having other women present in a group, women are able to affirm their experiences when I present possibilities. So having women involved in training is very important. Having trainers who understand women's rights, not just from a theoretical perspective, is also very important. A lot of the delegations that go to the Asia-Pacific to examine potential aid or training programs are predominantly male. I am not saying that men are not able to understand women's experiences. But, if they are all male, I would say that they have a higher threshold to be able to prove to me that they have the adequate knowledge to properly identify those needs.

The biggest issue by far that women face in the Asia-Pacific region is violence. Violence against women is so endemic in the Asia-Pacific that it tends to cause most of the other human rights problems. Things such as poverty, unemployment and those kinds of issues tend to be the result of violence. It is my professional opinion that violence against women cannot be addressed in the Asia-Pacific without a whole of government approach, and that is the approach that I was working on with the Indonesian National Commission on Violence Against Women just recently. It involves significant government commitment. It involves working with

government, police, enforcement bodies, civil societies and service providers. It is really significant. I think that, when we look at gender as just an add-on, we do not understand the breadth with which solutions have to be approached.

They are the suggestions I would make. Make sure that women are involved as much as possible. It is not always possible, because some countries will not allow women to take part. Have trainers or people who design the programs who understand the needs. Give women very practical training in implementation. I find that most women are very articulate about their rights. They do not need to be told about CEDAW or ICCPR; they know. What they do not know is how to write a submission, how to collect evidence and how to gather statistics and put them into a database—partly because they do not have access to computers. It is about those very on the ground things and matching people to deliver those needs properly.

**Miss McMurray**—I would like to add to that. I support everything Sabina was saying. To illustrate the utilisation of the rights review, this is being used currently in Kenya as a result of our first case. At the first public meeting I held we divided into groups to take statements from the claimants. A whole group of women came to me and were sitting around me. As you said, they would come to you in the breaks. They started to tell me about many allegations of rape against the British soldiers. I was overwhelmed and was thinking to myself, ‘How on earth am I going to be able to collect information and substantiate claims of rape for women in a culture and society when it is so difficult to even substantiate rape claims in a system where we have a very well-developed evidential system?’

We continued to pursue the bomb related incidents claims. As soon as we settled that we started a case on behalf of the Kenyan women who have been allegedly raped by British soldiers. This system, supporting the comments you made, needs to have women trainers. Anyone who is working with these people needs a preliminary ‘train the trainer’ so they can understand the social and cultural issues pertinent to the society within which they are operating. This system is now being used to collect information from the women which is now being verified. An amazing amount of evidence is being collected and it is likely that that claim will also be settled.

**Senator STOTT DESPOJA**—It is a fascinating example.

**Ms Lauber**—I certainly do not want to denigrate the work of human rights commissions throughout the Asia-Pacific, but my experience has been that they are male dominated, and that they are reluctant, to be polite, to take on women’s issues to the degree needed. In some countries—Indonesia is an example, and South Africa is another example—they have established a separate commission to deal with women’s issues. So the key human rights commissions in those countries will not deal with women’s issues. The Asia Pacific Forum only has one member per country. Inevitably, the commissions that deal with women’s rights are not members of the Asia Pacific Forum. These are all very small examples, but illustrate a system of structural discrimination against furthering women’s rights. Governments are not best placed to deal with violence against women because governments tend to be perpetrators. In Indonesia people believe that several of the rapes in 1998 were orchestrated by the military and that many of the rapes were perpetrated by the police, so any attempt by government officials to provide services to violence victims is not going to work because the women will not trust them. It has to

be done by civil society. Any human rights education has to have civil society involved, otherwise you lose the trust of the victims.

**Senator STOTT DESPOJA**—At the Australian end, are we giving sufficient emphasis to the issue of gender when we talk about human rights education and good governance, particularly when we are funding or assisting NGOs and others who travel in the region and do their work? Are there practical things Australia could be doing, whether it is in relation to the criteria or resources or what have you, to ensure that in the messages and the work we are doing we are conscious of gender issues as well?

**Ms Lauber**—I cannot make any blanket statements. From what I have seen of AusAID, a high regard is given to gender at a policy level. How that happens on individual programs is a different matter and depends a lot on the organisation that is implementing or designing the new program. The key is flexibility. AusAID sometimes relies on facilities. They might have a two-year facility to allow for a number of different projects. That can allow for the required flexibility. But also, allowing organisations to create partnerships means that you give them the opportunity to develop over time. Often with women's rights it is about changing a mind-set. You cannot go into a Muslim country and implement an amazing system that deals with women's rights because you need to change the mind-set first. Indonesia is an excellent example because it is a Muslim country and it is a very complex culture in how it deals with women's rights. Having advisers from within Indonesia advise AusAID on the kinds of programs that are required would be much more effective than me giving you that information. I have ideas, but it is the people in the countries who know.

**Senator STOTT DESPOJA**—Maybe you should provide a submission to the Foreign Affairs subcommittee. I am happy to put further questions on notice if you are willing to take some additional ones.

**Ms Lauber**—Certainly.

**CHAIR**—Ms Lauber, could you tell us what you were doing in Indonesia? What was your role on this occasion?

**Ms Lauber**—Most recently, I was working on a project that was AusAID funded and part of the legal reform program facility. That program was one of institutional capacity building for the Indonesia Commission on Violence Against Women.

**CHAIR**—There are participants in the program with whom we met yesterday who are employed by the commission.

**Ms Lauber**—Not the commission itself. Those participants are mainly government, and there are a few NGOs in there.

**CHAIR**—The Habibie Centre and a couple of others were there.

**Ms Lauber**—From the NGOs?

**CHAIR**—Yes, that is right. Senator Stott Despoja has referred to the Foreign Affairs subcommittee's inquiry into the relations between Australia and Indonesia. In fact, members of the Foreign Affairs subcommittee are visiting Indonesia in July. We as a joint committee have long had the view that this is an important part of the engagement process: that it is very easy to do these things from Canberra but that it is better to actually make the visits. You mentioned the need for more money for institutional strengthening and capacity building, while acknowledging the contribution that Australia makes. I agree with you. The Australian contribution is important in that regard because there are so many who do not contribute.

**Ms Lauber**—Absolutely.

**CHAIR**—What I would be concerned to ensure though is that we do not avoid engaging other governments on the importance of them making these commitments and taking their place. You say that funding should probably come from domestic sources but submit that that is not really realistic in all of the countries being supported. While I agree with you, it is important to encourage those countries as far as possible. Would you support that contention?

**Ms Lauber**—I agree wholeheartedly. Often when I do AusAID type projects I go in as a technical expert on legal issues or women's rights issues and I end up behaving like a management consultant, which is the work that I also do. One of the things that I was teaching the Indonesian Commission on Human Rights is how to present as an organisation to get funding; how to make government understand that they are an indispensable body that should be funded. That does not happen overnight. That is part of a process and a strategy. They are the kinds of skills that human rights activists do not have. They understand the human rights language and the dialogue—they are able to articulate their rights—but they do not know how to develop the strategies and put them into place. Yes, the Indonesian government should be funding these organisations, but it is a very new government which has been around for only five years. The people in the bureaucracy do not see the value of NGOs and they do not understand what their role is and what their place is. It is a matter of education from all sides.

**CHAIR**—Do you speak Bahasa?

**Ms Lauber**—Very little.

**CHAIR**—I am going to play the devil's advocate. I have been interested, in reading the submissions, in ALHR's suggestion in relation to English language training. It is my view that I should be learning Bahasa rather than suggesting that those who are participating in Indonesia learn English. I say, as the devil's advocate, that I think there is an imperialistic component to your suggestion and that Australia in particular is in a good position to make enormous steps with very small changes around learning more languages here and particularly Asian languages.

**Ms Lauber**—I do not disagree with you but, coming from a legal reform perspective and an international human rights perspective, if you go to proceedings at the UN they are in English, predominantly.

**CHAIR**—French, if you are really unlucky.

**Ms Lauber**—That is true. For example, the regional consultation on violence against women, which I attended on behalf of Australian NGOs, was in English. In remote places where I have worked, such as Tibet, the language that they will be able to speak—other than Chinese, which not a lot of them speak—is English. The Internet sites that discuss human rights and the international NGOs that deal in human rights deal in English. Let us take women's rights as an example. These organisations want to engage in a dialogue with women from all over the world, to understand that their experiences of policy, poverty, violence and whatever else are not unique and to develop an understanding of strategies. Unfortunately, that happens in English, and that is the reality.

The other reality is that these organisations, to survive, need foreign donor funding. Foreign donors speak English. To lobby foreign donors for funding, whether that be AusAID, CEDAW, the Canadian body, USAID or the UN, these organisations have to speak English. Those who speak better English get more money. At the end of the day that is the reality. I had some very long discussions with the Ford Foundation and the Asia Foundation, which are American donor organisations and are very impressive in their work. The more dialogue they can have with people on the ground, the better they can structure their funding programs. There is a real gap if there are not any English skills. As with any donor body, people might be on the ground for three years and then transferred to another country. If Indonesians can learn English, they are actually much better off than all of these other donor bodies trying to learn the local language. While I take your point, I am just being extremely pragmatic about it.

**CHAIR**—Politicians are always criticised for that. I just have a couple more questions, and then I will go to Mr Thompson. I was surprised—and in fact I wrote myself a note when I was reading your gender section—that you had mentioned harassment, pregnancy discrimination and sex discrimination but not violence. I wrote 'DV' in my column beside your points. I think the points you have made on violence against women and the fundamental nature of its impact are extremely important. In terms of ownership in the Asia-Pacific region and getting governments to own the problem, I think you have hit the nail on the head about how difficult that is.

There is a parliamentary level organisation—so it does not represent governments, but parliaments more so—which held a conference in Bangkok two or three years ago, where 40-something parliamentarians from 14 different Asia-Pacific countries were represented. Only two were from Western imperialist nations like Australia and New Zealand, so the other dozen were from without the region. The cultural challenges that we have in that regard are absolutely enormous. I wonder whether you have any suggestions as to how one goes about getting better government ownership of the education issues of the human rights aspects of violence against women in particular, because that is one of the very pressing points which we are looking at broadly—ownership of education.

**Ms Lauber**—It has to happen at the right level. One of the things I did in Indonesia was design a program of assistance for the next three years for the Indonesian National Commission on Violence Against Women. Looking at violence, I suggested a multisectoral dialogue between Australia and Indonesia, at the various levels, on violence against women so that it happens at the senior levels. In my view, that is the office of the President of Indonesia—I am not convinced that parliamentarians actually have the power to do very much in Indonesia as yet—senior bureaucrats, senior members of the police, managers from different levels of the police and people from the regional areas, because Indonesia is going through a process of regionalisation.

So what you are trying to do is get people at the appropriate levels of authority to take ownership of the issues. If you are just having an interparliamentarian dialogue, chances are you are getting people who actually do not have the power to make any decisions.

**CHAIR**—Tell me about it!

**Ms Lauber**—So they will go home and put the proceedings on the shelf and they will stay there with all the rest of them. It is getting very serious in a place like Indonesia. I met women who are strongly committed to their Islamic faith who are working within the religious structures to change people's understanding of interpretations that blatantly advocate violence against women. That kind of work is vital. It develops community ownership of the problem. These people who work with civil society are the ones who need funding and support. If we keep going to parliamentarians who, quite frankly, do not need any more funding or overseas trips, nothing is going to happen. It is the in-depth dialogue with the people who know that generates programs that actually work. Sometimes that happens and other times it does not.

**CHAIR**—I have two more quick questions. You made reference to partnerships and cross-sectoral partnerships, which I gather is borne out of your experience in working on a number of these programs. What you said you were after was the capacity to pick up the phone 18 months later and say, 'X, Y, Z.' Is that not the case? Can't somebody who has participated in, for example, a program run by the Human Rights and Equal Opportunity Commission pick up the phone 18 months down the track and say to HREOC, 'I don't know how to handle this one?'

**Ms Lauber**—Not if it was a really short ad hoc program. If you take the key organisations that get all the donor funding—and you will have several of them in Indonesia, in Thailand and in China—they will be dealing with about five donors a year and be working on about five to 10 key projects a year. They are not going to remember you. They are not going to pick you out if you have been involved in just a four-week ad hoc project. If, however, you have been involved in a three-year ongoing program of technical assistance, you will build those relationships.

**CHAIR**—I see the comparison you are drawing.

**Ms Lauber**—People from the Asia-Pacific, particularly from Asia, take a much longer time to develop a personal relationship. The relationship is very formal for a long time.

**CHAIR**—Finally, Miss McMurray, I wanted to thank you for the evidence you gave on the human rights review, particularly in relation to those Kenyan examples, which I found very compelling. We would be pleased to learn anything else we could, both personally and as a subcommittee, about that work. I wondered whether you or ALHR had approached AusAID in relation to using the human rights review as a possible tool.

**Miss McMurray**—As a tool to be implemented?

**CHAIR**—Yes.

**Miss McMurray**—No, I have not and neither has Australian Lawyers for Human Rights. It is a paper that I drafted as part of my own research, having returned to Australia last year, and a system that I would strongly recommend and be very pleased to have implemented as part of any



program to assist in assessing and monitoring human rights. The response I had from Australian Lawyers for Human Rights was that it also needed to be considered by their senior committee for it to be supported, but I would be very pleased for that to occur.

**CHAIR**—Double-up bureaucracy.

**Miss McMurray**—Yes.

**CHAIR**—In all its incarnations.

**Mr CAMERON THOMPSON**—This question might come across as a bit cynical—and it is not directed at either of you—but, Ms Lauber, given the things you witnessed whilst being involved in this exercise, I thought you might be able to shed some light on something that I want to follow through on in relation to the dialogue you have had with aid organisations and your opening remarks about leaky premises and things like that. To what extent is aid-giving corrupted or its value undermined by commercial considerations—for example, donor governments trying to curry favour in order to win trade in a developing economy and therefore failing to properly target or manage their aid because the effectiveness of the aid is a secondary consideration to its face value?

**Ms Lauber**—I think that is a very interesting question. I suspect, but I could not give you direct evidence, that a proportion of aid is designed to create trade advantages. I would make a further assumption that that applies to large trading partners such as China. However, I think some aid is very genuine and very genuinely effective, and so I think it goes both ways.

Certainly, just recently while I was in Indonesia I did witness some countries—and it was not Australia, through AusAID—implementing enormous aid programs over several years that seemed to me to ring very much of self-interest from the countries concerned. One of the things that, to use your word, corrupts the program of aid is false assumptions or misunderstandings about the capacity of the organisation or the country or the culture. I think that still happens. One of the greatest false assumptions that is made is about the capacity of organisations to run themselves effectively and to be able to properly account for money and remit moneys and have transparent and accountable systems. That is widespread throughout the donor bodies, which is why in our submission we talked about teaching organisations to do proper accounting and have employment systems.

One of the other things that might ‘corrupt’ a program of aid is the desperation of organisations to get foreign money to keep operating. If they do not get donor grants, they will have to close their doors or they will have to dismiss staff who rely on this money for their livelihood. That, again, is a very pragmatic point that needs to be made. What is ‘livelihood’? Some of these people do not earn enough in these civil society organisations to even pay their rent and eat. It is a difficult situation, particularly when donor bodies say, ‘No, we don’t give core funding in the money we give you; we won’t pay for salaries, but we want you to implement this two-year program of police reform.’ To me that rings of assumptions about capacity that are not genuine.

**CHAIR**—And they won’t pay the police enough either!

**Ms Lauber**—Yes.

**Mr CAMERON THOMPSON**—You said that there had been some very big ones that seemed to be ‘questionable’—I cannot remember your exact word. Without being specific—

**CHAIR**—Let us not have an international incident.

**Mr CAMERON THOMPSON**—No, I am just looking for the size of the money you are talking about. I would like to have some concept of the waste, if there is waste.

**Ms Lauber**—It is not waste. The programs that I am talking about are programs that address trafficking in women. Trafficking in women is a subset, in my view, of violence issues. It is a huge issue that Western countries are fundamentally a part of, because men who demand services from women in the Asia-Pacific are often from wealthy Western countries. Trafficking issues also raise problems of migration, and migration is a very big issue not just for Australia but also for the United States. So you tend to get trafficking programs with very one-sided goals that do not always take into account the needs of the victims themselves. USAID has just launched a very well-funded program into trafficking in women. I guess if I had designed the program myself, I would have done it differently.

**Mr CAMERON THOMPSON**—I was asking about the amount involved.

**Ms Lauber**—I think it was US\$90 million.

**Mr CAMERON THOMPSON**—Moving away from that altogether, you also said that there were programs with no core funding. In designing these things, how do we better deal with that?

**Ms Lauber**—I have made some suggestions in the submission. Programs are given to an organisation to implement—for example, a human rights education program—whereby a civil society organisation in the Asia-Pacific goes out and educates key people from the community or helps to establish services. Again, women is another case in point. Service provision for victims of violence is predominantly done by NGOs—and should be. If you want an NGO to implement a one-year program of something, that NGO should be given some core funding to run its organisation. That might be part funding for an accounts person to manage the money and to make sure that there is adequate accounting systems to ensure that there is no corruption going on.

We should look at the possibility of paying a proportion of the salaries of people implementing that program. We should look at the adequacy of IT systems to properly implement that program or establish statistical databases to collect statistics that might arise out of that program. That is what I am talking about with core funding: the key running costs that the organisation requires. What tends to happen is that money is funded for things like materials, and travel and accommodation costs that might be involved if there are conferences and things like that. I would extend that to include a component of core funding.

**Mr CAMERON THOMPSON**—Given that there is some merit in trade considerations playing a part, in the case of some overseas donors—and I am not talking about AusAID or anyone in particular, but certainly other ones—is there an inordinate amount of focusing on

those sorts of considerations? Therefore, have we got worthy considerations, worthy locations and worthy objectives that are being neglected in this whole process? I suppose that goes without saying, but are there any particularly noteworthy examples that you are aware of? Miss McMurray might talk about the Kenya thing, but are there ones that you are particularly aware of?

**Ms Lauber**—I would go back to violence against women. Women do not play a huge part in trade.

**CHAIR**—Unless you are Charlene Barshevsky, the US trade representative in the previous administration.

**Ms Lauber**—That is true! I do not have enough knowledge of the aid program as a whole to be able to answer that precisely.

**CHAIR**—I am interested in the concept of study tour fatigue because occasionally I am the study tourer and the people who are receiving me look fatigued. I imagine that this is not unusual. At the same time, you cannot devalue the importance of the exchanges, the acquisition of information and those sorts of things. I do not know what the answer to that is, but it does put an extraordinary impost on organisations, institutions, government departments and commissions—you name it. I am not sure that there is a replacement for it.

**Ms Lauber**—I agree with you. I took my group to Australia on a study tour. After being the study tour presenter for several years I was organising one. I suggest a three-stage approach to study tours. The three-stage approach is, first of all, consulting with the participants about their needs. I went to Indonesia and went through a process of consultation and established what the needs of the participants were and what they needed to learn before I organised the study tour. So the study tour did not just rock up on my doorstep and there was no preparation. I carefully selected and briefed all of the presenters on the study tour and said: ‘This is what we need. We don’t need the other stuff. Be very specific. This is what my group wants to know.’

I made sure the group had a proper command of English before I brought them in and I made sure that the group did presentations to all the presenters so that there was a common understanding of needs and a relationship was established. Afterwards I gave feedback and I thanked the study tour presenters. Then we used that information to do a conference in Indonesia so that all of the participants from the organisation, all of the staff there, could learn from that study tour. Very few study tours would go through that process: the pre-tour consultation, the careful selection and planning of the study tour and then the post-study tour conference. That tends not to happen.

What I would suggest is that some study tours be replaced with longer term internships. Rather than a one-week study tour, actually get one member to spend one or two months working somewhere. I think we also need to look at paying some of the organisations doing the presentations. Not all of them will ask for it but I am aware that some government departments are asking for something like \$2,000 an afternoon to do a presentation to a study tour.

**CHAIR**—Is that a Commonwealth government department?

**Ms Lauber**—State. Perhaps also some guidelines need to go out about study tours. For example, I know that the Chinese government sends out huge groups of people on so-called study tours and the travel agents will arrange the study tour. There will be 40 judges from China wanting to visit a court or a department, with no structure of the tour and no set goals—it is not part of any aid program. How do we deal with that and how do we know that it is a genuine study tour? Perhaps it spoils things for other people who genuinely need that information. There is actually no way of telling what is a junket and what is not. I am a little hard on junkets because I believe they are actually a subset of corruption. I want to be quite clear about that—I think they are a waste of money.

**CHAIR**—A point well made. Thank you both, Miss McMurray and Ms Lauber, for your attendance here today. If there are any matters on which we might need some further information, the secretary will be in contact with you.

Resolved (on motion by **Senator Stott Despoja**):

That this subcommittee authorises publication, including publication on the parliamentary database, of the transcript of the evidence given before it at public hearing this day.

**Subcommittee adjourned at 1.32 p.m.**