

THE LINK BETWEEN AID AND HUMAN RIGHTS

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

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Charity Adage:

"Give a man a fish and you feed him for a day, teach a man to fish and you feed him for a lifetime."

Human rights view from the Mekong River:

'A man' is just as likely to be 'a woman', and she already knows how to fish.

She would like her river left alone by illegal logging companies or fish poachers using dynamite and working in collusion with corrupt local government officials.

She would prefer that her government did not build huge dams with the help of the Asian Development Bank, dams that have reduced fish stocks dramatically and damaged her livelihood.

She would prefer that police did not use violence to enforce mass evictions to enable the dams to be built.

She doesn't want charity.

She would like her basic rights respected.

The sentiments of Thin, a woman leader from Check village, Takeo Province, partner in the Community Aid Abroad-Oxfam Australia program in Cambodia.

INTRODUCTION

Community Aid Abroad - Oxfam Australia - welcomes the opportunity to provide input to the Human Rights Sub Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade inquiry into the link between aid and human rights.

Community Aid Abroad - Oxfam Australia is an independent community-based organisation which promotes social justice and the alleviation of poverty through the funding of innovative development projects around the world and in indigenous Australia. CAA also undertakes advocacy work which aims to challenge attitudes and policies that inhibit the realisation of human rights. CAA is a member of the Oxfam International network of 11 development agencies around the world and of ACFID, the peak body for Australian non-government organisations (NGOs) in the field of development assistance.

CAA's philosophy is reflected in our vision statement which states:

CAA's vision is for a fair world in which people control their own lives, their basic rights are achieved and their environment is sustained.

CAA's contribution to this inquiry is based on 40 years of association with a diverse range of NGOs representing civil society in the Asia and Pacific regions. CAA works to support these NGOs to promote and realise the economic and social rights of poorer communities. Through our work, CAA sees that the denial of human rights is an impediment to successful alleviation of poverty.

This submission is divided into three sections which address the specific terms of reference of the inquiry.

TERM OF REFERENCE SECTION 1

Australia's efforts in advancing human rights in developing nations through the use of foreign aid through activities which have the advancing of human rights as their objective, in-

- bilateral country programs;
- regional programs in Asia and the Pacific;
- global and multilateral programs, including the role of multilateral development banks and emergency and humanitarian assistance;

1.1 Progress since the Simons Review of Australia's Aid Program

The link between human rights and aid was poorly addressed in the 1997 Simons Review of Australia's Aid Program. The Report makes no specific recommendations on human rights and includes a number of sweeping statements which Community Aid Abroad - Oxfam Australia has previously contested. Notable amongst these was the statement that;

"If the broader range of rights is considered, nearly all activities supported under the aid program help to promote human rights in one way or another. In particular, improvements in economic, social and cultural rights are integral to the conduct of the aid program" ^[1] As documented elsewhere in this submission, there is no evaluation mechanism within the overseas aid program by which this statement can be verified.

Although Community Aid Abroad-Oxfam Australia supported much of the Simons Review and commends the direction of the Aid Program articulated in Better Aid for a Better Future, the failure of the Simons Review to examine the link between human rights and aid left Australia's aid program out of step with current thinking on effective development practice, particularly that emerging within multilateral development agencies.

In response to the Simons Committee Review the Federal Government committed its Overseas Aid Program to 'One Clear Objective' - "to reduce poverty and achieve sustainable development". ^[2]

¹ The Australian Overseas Aid Program. One Clear Objective. Poverty Reduction through Sustainable Development 1997. p226.

² Better Aid for A Better Future, -7th Parliamentary report on Australia's development cooperation program, November 1997.

In December 1998 the Foreign Minister recognised the importance of international human rights norms to Australia's foreign policy and international development co-operation program. This was underlined by the six principles underpinning human rights and Australia's aid program expounded by the Foreign Affairs Minister.

Subsequently, Community Aid Abroad-Oxfam Australia believes AusAID has made substantial inroads necessary to begin to intergrate human rights into the aid program. In particular, we are encouraged by AusAID's focus on basic education, primary health care, good governance and a measure of conditionality related to human rights performance of recipient governments. The changes have begun to align the program far better with goals consistent with a human rights approach.

Although this progress by AusAID is commendable, the link between these sectoral foci and human rights remains largely implicit rather than explicit in the aid program. Community Aid Abroad-Oxfam Australia believes that such an approach is now inconsistent with the contemporary discourse on human rights and development, as outlined in section 1.2 below. There is a compelling argument for AusAID to in future be more explicit in its use of a human rights approach.

It is important that human rights be seen as integral to Australia's poverty eradication strategies and not as a separate component of Australia's development program or merely part of a 'good governance agenda'. The human rights approach to development draws on international human rights norms as a principled and coherent framework to approach the development program. It translates the human rights obligations of national governments into development objectives that become the subject of negotiation between donor and recipient governments.

This approach is not concerned with negative conditionality but promotes a positive approach that is aimed at assisting national governments to eradicate poverty and meet their human rights obligations. It does not prescribe a particular model of development but it does place an emphasis on the involvement of civil society in developing poverty eradication strategies.

Stronger civil societies are at the heart of sustainable people centered development. A human rights approach to development emphasises the important role of civil society organisations and their participation in developing coherent poverty reduction strategies of major donor. A commitment by AusAID to involving civil society participation in developing country strategies is the key to focusing successfully on the rights of people living in poverty, the marginalised and vulnerable groups.

The UNDP, UNICEF, UNIFEM and a number of national governments - notably the United Kingdom and Sweden - have adopted an explicitly human rights approach to their development program. Community Aid Abroad - Oxfam Australia commends these examples to the Australian Government as tested models of how to implement a human rights approach to development co-operation.

1.2 Human Rights as an aid and development paradigm

Achievement of fundamental human rights for all is rapidly emerging as a dominant paradigm in the global aid and development sectors. The discourse in development assistance organisations increasingly uses human rights as a framework for programming and advocacy.

In a globalised world our very interconnectedness makes clearly accepted universal human rights standards a powerful tool for change - whether in getting G8 commitment to debt reduction or pressuring for reform in countries which abuse human rights through violence or corruption. It is the most powerful moral force we have. The increasing recognition of business and financial markets that human rights observance has implications for good governance and therefore financial risk has had an enormous impact on world events in recent times.

In a speech to mark the Fiftieth Anniversary of the Universal Declaration of Human Rights, the President of the World Bank, James Wolfensohn, said;

"The World Bank believes that creating the conditions for the attainment of human rights is a central and irreducible goal of development.....The world now accepts that sustainable development is impossible without human rights. What has been missing is the recognition that the advancement of an interconnected state of human rights is impossible without development."

Similarly, the attention of the United Nations has recently turned to making the link between human rights and development processes through promoting a rights based approach to development. United Nations Secretary General Kofi Annan recently defined a rights based approach to development in the following terms;

"A rights based approach to development describes situations not simply in terms of human needs, or of developmental requirements, but in terms of society's obligations to respond to the inalienable rights of individuals, empowers people to demand justice as a right, not as charity, and gives communities a moral basis from which to claim international assistance when needed." {HYPERLINK \l "note3"}

In addition, a growing body of evidence is now emerging highlighting the severely limited or negative developmental impacts of bilateral and multilateral development projects conceived and implemented without reference to explicit human rights based approaches to development.

³ Kofi Annan UN 1998: paras 173-4.

One such example is the recently released report of the World Commission on Dams. This report finds the traditional 'balance sheet' approach of assessing costs and benefits of infrastructure projects is an inadequate tool for effective development planning and decision-making associated with infrastructure projects;

"The case of dams clearly illustrates that development choices made on the basis of such [cost benefit] trade-offs neither capture the complexity of considerations involved, nor can they adequately reflect the values societies attach to different options in the broader context of sustainable development.

Given the significance of rights-related issues as well as the nature and magnitude of potential risks for all parties concerned, the Commission proposes that an approach based on 'recognition of rights' and 'assessment of risks' (particularly rights at risk) be developed as a tool for guiding future planning and decision making. This will also provide a more effective framework for integrating the economic, social and environmental dimensions for option assessment and the planning and project cycles."^[4]

The World Commission on Dams report highlights five values which form the foundation of their recommended rights-based approach to equitable decision-making about water and energy resources management; equity, efficiency, participatory decision-making, sustainability and accountability.

This emerging human rights paradigm is now also extending to the operations of private sector. The importance of corporate brand reputation to company financial performance is an increasingly important normative force driving adherence to acceptable human rights standards within the private sector. For many firms and industries, activities which lead to poor brand reputation can be quickly exposed and translate directly to consumer pressure for reform. Such pressure, especially if applied in the form of consumer boycotts of products, can in turn create significant shareholder pressure for reform.

As a result, some Australian corporations - including BHP Limited and Rio Tinto - have now incorporated a specific commitment to upholding the rights enshrined in the UDHR in their business principles. Interestingly, this development is being driven by strategic and commercial imperatives - the private sector is not legally obliged under international law to respect the international human rights framework as laid out in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

Firms recently embroiled in controversy over the impact of their operations on human rights - such as Nike, Nestle and Shell - recognise a close and immediate relationship between brand reputation and financial performance. Strategically, this relationship demands close attention to corporate human rights standards in any adequate overall financial risk analysis.

⁴ The Report of the World Commission on Dams 2000 p 206.

These few examples illustrate a striking shift in international thinking on the link between human rights and development in the relatively short period of time since the Simons review of Australia's aid program.

1.3 Explicit Human Rights Development Programming - The Oxfam Example

In moving towards a more explicit recognition of the centrality of human rights to its development programming, AusAID has the opportunity of examining other models of development programming - one such model being the approach recently adopted by Oxfam International.

Together with our Oxfam International colleagues, Community Aid Abroad-Oxfam Australia takes a rights based approach to its work on poverty, injustice and suffering. This approach reflects the view that poverty and suffering are primarily caused and perpetuated by the denial of rights between and within nations, resulting in the exploitation and oppression of marginalised peoples.

This rights based approach to development further implies that States have obligations and citizens have rights, expressed through international covenants, agreements and commitments. These include the United Nations Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and more specific commitments made by Governments at a range of international forums and conferences in the 1990's such as the Education for All forum in Jontiem, Thailand in 1990.

Flowing from this analysis, the strategic planning framework of Oxfam International consists of five Aims expressed in terms of rights. Oxfam believes that all people have:

- The right to a sustainable livelihood.
Rights to food and income security, greater access to and protection of natural resources upon which people depend, access to secure employment, dignified working conditions, ability to participate in and benefit from markets.
- The right to basic services.
Rights to health through improved access to affordable and adequate basic health services, clean water, sanitation and public health services.
Rights to good quality basic education for children and for adults, educational opportunities to overcome poverty.
- The right to life and security.
Reduction in the number of people who die, fall ill or suffer from armed conflict or natural disasters. Reduction in the number of people who suffer personal or communal violence forced displacement or armed conflict.
- The right to be heard.

Marginalized people will achieve their civil and political rights, will have an effective voice in influencing decisions that affect their lives and will gain the skills and moral support to exercise these rights effectively.

- The right to an identity - gender and diversity.
Women, ethnic and cultural minorities and other groups oppressed or marginalised will enjoy equal status with other people.

Oxfam International and its members have recently committed to use these five Rights as strategic aims for our international development and advocacy programs. Beneath each aim sits strategic change objectives which set program targets that directly reflect the rights to be met over an agreed time frame.

As can be seen, this basic rights framework is used to operationalise the UDHR and Covenants in a practical way. The value of the UDHR and the UN Covenants is that they provide a platform of universal standards with a measure of legal standing. This puts the onus upon our development and advocacy programs to be consistent and of good quality.

Walking the Talk; Community Aid Abroad - Oxfam Australia in East Timor

The Community Aid Abroad - Oxfam Australia development program in East Timor provides one example of the application of this rights based approach to development through implementation of programs consistent with empowering local people to exercise the five Oxfam rights based aims referred to above.

The Oxfam NGO Development & Advocacy Program in East Timor aims to empower and strengthen East Timorese Non Government Organisations and Community-Based Organisations (CBO's) to participate in the sustainable development of East Timor. This is achieved through strengthening the advocacy role of East Timorese NGO's and CBO's and through assistance with organisational development, in the priority sectors of Environmental Health, Human Rights and Social Justice, Sustainable Livelihoods and Gender Equity. The NGO Development Program also has a specific focus on strengthening the role of East Timorese women in decision-making and their participation in their communities' development.

This program primarily addresses political human rights by empowering local NGOs to have their say in the development process. It also raises the profile of women's rights through advocacy and strengthening of local women's NGOs. The program thus seeks to create an awareness of and promote human rights such as: freedom of expression, freedom of association, the right of peaceful assembly and the right to freedom of thought, conscience and religion, women's rights and democracy.

Some examples of activities that are undertaken are:

- training on advocacy and gender;
- the provision of support to local NGOs on how to participate in the political process and thereby enhance democracy;

- support to national NGOs that focus on raising awareness on human rights (social, political and cultural) and some that focus specifically on raising awareness and education on women's rights at district level
- promoting the participation of women in decision-making forums such as the National Council.
- Providing support to the East Timor Women's Network to advocate on the platform of rights that was developed at the ET Womens Congress in June 2000.
- Support exchanges and visits to training programmes or workshops that deal with human rights.
- Small business opportunities for womens co-operatives or groups at district level

The Environmental Health component of the program consists of activities centred on strengthening the organisational capacity and technical skills of partner NGO's, community groups and women's networks to promote sustainability in the four districts where OXFAM works, in the area of water and sanitation.

This program primarily addresses human rights in the area of economic, social and cultural rights, in particular: the equal right of men and women to the enjoyment of all economic, social and cultural rights; and the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The EH Program specifically covers the steps laid out in Article 12 of the International Covenant on Economic, Social and Cultural Rights for the full realisation of the right to health:

- a. The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
- b. The improvement of all aspects of environmental and industrial hygiene;
- c. The prevention, treatment and control of epidemic, endemic, occupational and other diseases.

Examples of activities are:

- Health promotion training at the community level;
- Health promotion is often an entry point to where issues around rights can be discussed/ promoted;
- Policy development in the area of preventative health and community ownership in conjunction with the Division of health;
- With communities support the provision of water supply in peri-urban and rural communities;
- Participation in and support of national immunisation campaign for children;

The use of Human Rights standards in the delivery of aid is used more widely than by Oxfam International. A notable example is the introduction of Human Rights in the Sphere Global Standards for emergency relief which now provides the basis for the operation of most mainstream emergency relief /disaster management organisations.

1.4 Tackling impediments to Explicit Human Rights Development Programming – Cultural Relativism and Asian Values

Coinciding with the Simons committee review of the Australian aid program there emerged vigorous debate from some Asian leaders as a challenge to the universality and indivisibility of human rights expressed through advocates of cultural relativism or "Asian Values" perspectives on human rights.

At the lead up to the World Conference on Human Rights in Vienna, 1993, a number of Asian governments, including China, Singapore, Indonesia and Malaysia, asserted that what was required was a "flexible approach to the concept of human rights, and one that would take into account Asia's cultural and political specificity." ^{HYPERLINK \l "note5"}

At the 1997 ASEAN Regional Forum, Malaysia's Dr Mohammed Mahathir expressed a more extreme perspective by calling for a re-negotiation of the Universal Declaration of Human Rights on the ground that it was "formulated by the superpowers which did not understand the needs of the poor." ^[6]

Subsequent recent experience in the Asia Pacific region emphatically demonstrates the illegitimacy of the cultural relativism and Asian values arguments. Now, more than ever, the regional security agenda is being driven by issues rooted in people's aspirations for the achievement of their fundamental human rights under the UDHR and the two Covenants - whether they be in East Timor, Bougainville, Aceh or West Papua. Whatever a person's cultural or ethnic background, the denial of human rights in its many manifestations feels the same and therefore human responses to the denial of basic rights are fundamentally consistent.

Accordingly, Community Aid Abroad believes it is now more important than ever for AusAID development programming in our region to be more explicitly framed around human rights.

There is no single set of "Asian values". Asia has a richness of languages, cultures, histories and religions. While recognising the cultural diversity of the Asia and Pacific regions, it is our experience that this richness is not incompatible with respect for human rights. In Papua New Guinea, the Individual and Community Rights Advocacy Forum (ICRAF), a CAA partner NGO has developed an NGO program for human rights, gender equality, land rights and natural resources in which they state:

"Human Freedom and Human Rights are fundamental to the creation of a just and peaceful society. Our freedoms and rights are far and wide and they are enshrined in the Constitution of Papua New Guinea and in our age old traditions and customs."

⁵ Bangkok Preparatory meetings, 1993

⁶ The Age, 30/7/97

Moreover, the "Asian Values" argument is at odds with the view of the peoples of Asia. In the lead up to the Vienna Conference on Human Rights, 110 Asian NGOs firmly rejected the cultural relativist position of their leaders. The Bangkok NGO Declaration reaffirmed the universality and indivisibility of human rights. The participants stated:

"Universal human rights standards are rooted in many cultures. We affirm the basis of universality of human rights which afford protection to all of humanity, including special groups such as women, children, minorities and indigenous peoples, workers, refugees, displaced persons, the disabled and the elderly. While advocating cultural pluralism, those cultural practices which derogate from universally accepted human rights, including women's rights, must not be tolerated."

Arguments against the universality of human rights in our region on the basis that economic development is a pre-requisite for the achievement of human rights are equally discredited.

It is now widely acknowledged that economic growth pursued to the detriment of human rights is far from socially and politically sustainable. Examples of this continue to be widespread in our region - the violation of social and economic rights of poor rural families who lose their agricultural income because of the removal of trade barriers and cheap agricultural imports; the loss of land and livelihood for families displaced by infrastructure projects such as industrial estates, ports, dams and mines and the loss of access to clean water, marine resources and health problems which result from pollution which often accompanies such developments.

The terms 'development' and 'economic growth' are not one and the same. Economic growth may or may not lead to greater human rights, depending on whether the elements of participation and distribution are incorporated. The indivisibility of rights implies that the right to development should not lead to the deprivation of other rights. It is Community Aid Abroad - Oxfam Australia's view that the goals of human rights and the goals of development are inseparable. Development which violates human rights is not true development. Economic and social development can only be achieved and sustained in a climate that respects and promotes human rights as universal, indivisible and inalienable.

The Minister for Foreign Affairs, Alexander Downer recently reinforced this point:

"Every year we see examples of governments getting into trouble when they have ignored human rights or have perpetuated a climate of impunity...Eventually official corruption, lack of accountability, the absence of a reliable legal system and the denial of political participation take their toll on social stability and galloping economies alike. Governments often realise too late that if the institutions are not there to protect human rights, the rest will prove to have been built on sand."^[7]

1.5 A Whole of Government Approach to Human Rights

In addition to a more explicit human rights framework within AusAID development programming, Community Aid Abroad-Oxfam Australia believes that there needs to be a whole of government approach to human rights, an approach which is consistent across aid, foreign policy and trade considerations, and consistent with domestic policy. Human rights cannot be sequestered from trade and other considerations.

The Minister for Foreign Affairs, Alexander Downer, recently emphasised this point in reinforcing the importance of human rights as critical to foreign and domestic policy;

"There is a tendency in some circles in the developed world to see human rights as the soft underbelly of foreign policy, something that can be dispensed with when hard strategic decisions have been made. And in some developing countries, human rights are still seen as the soft underbelly of domestic policies: the luxury that is added on when more important things like the economy have been attended to. Both perceptions are misguided."^[8]

Community Aid Abroad-Oxfam Australia supports the Government's acknowledgement of the indivisibility of human rights, and the emphasis it places on good governance and institutional building in the Government's human rights and development cooperation policies. Initiatives across these areas must be fully coherent and consistent to ensure

Australia's efforts are genuinely contributing to the strengthening human rights in recipient countries. The promotion of indiscriminate economic development can be at odds with the fulfillment of basic human rights in practice. Whole of government mechanisms should be put in place to monitor the effectiveness of aid vis-à-vis human rights.

⁷ Speech by the Hon Alexander Downer, Castan Centre for Human Rights Law, Melbourne, 20/11/00. Published in Human Rights-Newsletter of DFAT, Issue 12 December, 2000.

⁸ Speech by the Hon Alexander Downer, Castan Centre for Human Rights Law, Melbourne, 20/11/00. Published in Human Rights-Newsletter of DFAT, Issue 12 December, 2000.

However, it is clear that there are significant gaps in Australia's ability to implement a broader whole of Government approach to human rights and that this has the potential to impede our ability to take a leadership role on human rights in this region. In particular, both Australia's domestic record and attitude towards international engagement on human rights issues is inconsistent with the implementation of a whole of Government approach to human rights.

Upon ratification of or accession to international human rights instruments, Governments are bound by international law to provide for their effective implementation through their policies and practices. Therefore, in both the domestic sphere and through foreign policies, the Australian Government is obliged to promote and protect human rights.

Community Aid Abroad-Oxfam Australia remains deeply concerned about the position adopted by the Government as a result of its review of Australia's interaction with the UN treaty committee system.

On 29 August 2000, the Government announced a "more economical and selective approach" to its reporting and representation activities in relation to treaty committees. As a signatory to these treaties Australia has legally binding obligations to comply with a reporting process. Limiting entry of treaty bodies to Australia and providing information only when the government considers there are "compelling reasons to do so" directly erode the system's effectiveness.

UN treaty committees do not intrude into domestic affairs as suggested by the Government. They have the mandate to ascertain whether the law and practice of signatory countries meet their treaty obligations, and while their recommendations are not legally binding, they have considerable moral weight. In attempting to control the level of scrutiny, Australia could damage its international regard as a leader in the promotion of human rights.

Australia has a sound international record in terms of the promotion and protection of human rights. This does not however make us immune to criticism in the context of a universal system. Concerns have been raised by UN committees monitoring the implementation of the International Covenant on Civil and Political Rights, the Convention on the Elimination of Racial Discrimination and by the UN Human Rights Commission in relation to the Native Title Amendment Act 1998, asylum seekers and mandatory sentencing. While reform of the UN treaty committee system is long overdue, the current Australian Government approach may seriously undermine the validity of the United Nations human rights system.

Australia has consistently placed human rights as a priority in terms of our engagement with neighbouring countries. Australia's credibility to take on this role is based on our sound human rights record and unwavering support of the UN system. Full participation in the system is critical to our future as it provides a sound basis for promoting regional security and stability. Perceived limited or conditional support for human rights may serve to erode our credibility in the region.

In particular, Australia's stance of conditional cooperation may provide a welcome precedent and leverage for countries that engage in gross violations of human rights to follow suit. The efforts to promote human rights being made through the overseas aid program are weakened by what could be easily interpreted as selective commitment to the UN human rights treaty system.

CAA-OA supports the view that the UN treaty body system needs positive reform, and an extensive review of the UN human rights treaty system has been in progress since 1998. The key for the Australian Government is to fully engage with this process, not to create parallel processes that may further destabilise the system and damage the country's reputation.

More broadly, Community Aid Abroad - Oxfam Australia is also concerned with the Australian Government's failure to support a wide range of international agreements and co-operation mechanisms designed to enhance the rights to survival, health and basic education. These instruments include the World Declaration on the Survival, Protection and Development of Children, the Draft Declaration on the Rights of Indigenous Peoples, the 20/20 Initiative and the goals of the World Summit for Social Development. Australia has also failed to take any significant steps towards operationalising the DAC twenty-first century goals.

1.6 An Explicit Human Rights Framework as a case for increased aid

If rights are universal and indivisible it follows that those who fully enjoy their rights have a responsibility to ensure that those who suffer poverty, marginalisation, and political persecution are also able to enjoy their rights. Community Aid Abroad-Oxfam Australia does not see this as a charitable response - full enjoyment of rights means being in a position to take responsibility for one's own development.

Put more simply the 'haves' have a responsibility to ensure that the 'have nots' can control their own development and their own future. Community Aid Abroad-Oxfam Australia's own programs are based on the concept of self-help and self reliance within a rights based framework.

Thus wealthy countries have a responsibility to provide development assistance, and an important measure of commitment to human rights is the level of that assistance. Community Aid Abroad-Oxfam Australia is on the record in saying that Australia's level is, at significantly less than 50% of the UN target of 0.7% of GNP, abysmally low.

In addition, only about 14% of Australian aid is currently allocated to the basic social services of primary health care, low cost water and sanitation and basic education.^[9] It is estimated that this level of funding would need to be doubled to about \$400 million to meet Australia's fair share of the cost of providing basic social services for all people.

⁹ Eurostep, 1998, p43.

Equally, developing countries need to take proper responsibility for ensuring that assistance given is used to maximum effect. In addition, the type and nature of development assistance should be consistent with a human rights approach - strategies and programs should enhance and support human rights objectives.

1.7 Comments on Specific Bilateral Programs

Southern Africa

The AusAID budget for Africa is currently only around \$41,000,000 per annum and concentrated on the Southern Africa region. AusAID currently spends approximately 25% or \$10 million per annum of its available funding through the Australian NGO window. Community Aid Abroad - Oxfam Australia is supportive of the sectors prioritised by AusAID: water and sanitation, food security and HIV/AIDS.

CAA is of the view that work in these programmatic areas has the capacity to improve the basic rights of the most marginalised communities in the region. Gender is currently a priority within these thematic areas - a prioritisation supported by CAA.

In addition AusAID have offered funding windows in-country, available only to national organisations that respond to priorities within the region. One example is the funding program against Gender Violence in the Republic of South Africa.

Finally AusAID have in its recent history demonstrated a commitment to supporting local human rights initiatives through its Small Activity Scheme. One notable example was the support offered to the NCA in Zimbabwe who were attempting to promote constitutional change in that country.

Indonesia

Indonesia is continuing to go through an extensive political and economic transformation following the fall of the Suharto regime and the impact of the Asian financial crisis. The transition has resulted in an increasingly volatile political environment as competing interests from within the army, government and religious groups fight for influence.

While it is unclear what the eventual fall out of these internal conflicts and problems could be, there is a clear challenge for the international community to agree on its response to further instability and violence. An underlying principles the international community must support during this time is that international human rights principles be upheld in all situations. Accordingly, Community Aid Abroad strongly supports the AusAID Human Rights Small Grants Scheme in Indonesia and the flexibility of the scheme being administered through the AusAID Post.

The Australia-Indonesia Development Cooperation Program Country Strategy 2000-2003 mentions "support for provincial, district, and local governance as well as the implementation of decentralisation". Community Aid Abroad believes this support should be 'married' to the pursuit of human rights objectives at the provincial level as this will be critical if decentralisation is to be achieved in a manner consistent with the upholding of human rights.

1.8 Global and Multilateral Programs

The Asian Development Bank

Membership of the multilateral development banks, including the Asian Development Bank (ADB), has been an important part of Australia's foreign policy commitment to multilateralism, and to international relations.

Discussing multilateral institutions, the Australian Government's 2000-2001 aid budget paper states:

These organisations complement Australia's bilateral programs and share the goal of reducing poverty and achieving sustainable development. They play a vital role in the Asia Pacific region of encouraging good governance and promoting sound economic policies.^[10]

This position reflects a long history within the Australian Government of conflating overseas humanitarian objectives with its own foreign policy and international economic interests. In particular, as a middle-ranking power, Australia has identified multilateral institutions as its most effective vehicle for advancing the forms of economic policy that it would prefer to see shaping the international economy.

To lend moral weight to this, the Australian Government has generally justified this emphasis by declaring that the economic principles it seeks to advance are also the principles best able to eliminate poverty. Furthermore, as institutions such as the ADB are supposedly based around the core business of development, the Government has considered them an efficient means of providing development assistance. In essence, this means that large disbursements can be made towards development assistance, without too much administrative responsibility for overseeing the spending of that money.

¹⁰ Australia's Overseas Aid Program: statement by the Honorable Alexander Downer MP Minister for Foreign Affairs, 9 May 2000.

However, the ADB is not under a formal obligation to refer to and respect human rights. As such the power and influence it wields necessitates close scrutiny of the impact of its operations on the human rights of women, men and children.

As of 31 December 1998 Australia held 204,740 shares in the ADB, valued at \$A4.7 billion and representing 5.949% of the total capital subscribed to the Bank.^[11] This made Australia the fifth largest shareholder in the ADB, after Japan, the United States, China and India.

Australia also holds an important position within the governance of the ADB. Australia holds one of the twelve Executive Directorships on the Bank's Board of Directors, and is responsible for a constituency of countries including Cambodia, Hong Kong, Kiribati, the Federated States of Micronesia, Nauru, the Solomon Islands and Tuvalu. Australia individually holds just over 5% of the voting power in the Bank while the constituency which it represents holds just over 8% in total.

The ADB provides concessional loans to poorer countries, through its Asian Development Fund . It is this fund that is the primary source of ADB lending within the Mekong Region. As of 30 June 1999, Australia has so far committed \$1.35 billion to the Asian Development Fund, with \$561 million remaining outstanding. In the 2000-2001 aid budget, Foreign Affairs Minister Alexander Downer announced a contribution of over \$120 million to the Fund. This constituted a significant 13% of Australia's overall aid program. Prior to the final negotiations for Asian Development Fund's replenishment during 2000 Australia was the fourth largest donor, after Japan, the US and Germany ^[12] but with commitments made in September 2000, Australia has moved to being the third largest donor.

Funds provided to the Asian Development Fund are derived from the overseas aid budget, and as such, should be intended to have the same desired outcomes as articulated in the core objectives of Australia's ODA. Community Aid Abroad however, has been concerned that evidence from the Mekong region suggests that some programs and projects supported by the ADB are in fact undermining the rights of women, men and children.

Community Aid Abroad has noted that Australian bilateral aid has generally made constructive contributions to rural development in the Mekong region in recent years, especially through its support of community-identified and led development initiatives, and support for the realisation of peoples' human rights.

¹¹ Commonwealth of Australia, Australia and the Asian Development Bank 1998-99: Report to Parliament by the Hon. Peter Costello MP, Treasurer. Canberra. 2000. p. 26.

¹² "Australia's Overseas Aid Program", p.3.

However, it has also found that there are instances where development activities of the ADB have been an integral factor in undermining the livelihoods of rural communities within the Mekong region, and have entrenched a process of unequal development. Moreover, Australian financial contributions to the ADB can be seen to be working at cross purposes to the bilateral aid program, and thereby bring into question the long term effectiveness of some of Australia's better aid work.

In an AusAID supported conference Accounting for Development in June 2000, a number of case studies examined the the impact of ADB operations on the human rights of men, women and children in local communities in the region. One such case in Thailand is currently being investigated via the Bank's complaints mechanism. To quote from a letter sent by over 100 Thai Senators to the ADB President on January 17 2001:

"We regret that the local people have not been adequately informed about the project, nor have they been included in any decision-making process for the project. Contrary to the spirit of our present constitution, no public hearing was held before the government approved the project, nor was any Environmental Impact Assessment (EIA) or assessment of social impacts for the site at Klong Dan carried out. Local people have raised questions about the transparency of various decisions made for the project, including the process of purchasing land. We will be taking these issues up with relevant Thai authorities.

The ADB has played an important role in providing technical advice and financial support for the project. We have studied the policies of the ADB and have noticed that the implementation of this project seems to conflict with a number of these policies including the Anticorruption Policy, Policy on Incorporation of Social Dimensions in Bank Operations, Good Governance Policy, Policy on Confidentiality and Disclosure of Information and the Involuntary Resettlement Policy.

We urge the Bank to take immediate steps to review its support for the project in its present form, with particular regard to addressing the concerns of the local people and to applying the above mentioned policies of the Bank."

Another Thai example raised at the conference concerned a \$600 million ADB loan funding 20 projects and six programs related to the agriculture and water sector during 2000-2003. This is the first ADB loan to Thailand requiring extensive restructuring of the agricultural sector. Concerns were expressed with the impact on the rights and livelihoods of rural farmers following the reforms proposed by the Ministry of Agriculture and Co-operatives. The impact of these

reforms would be felt most heavily by small scale local farmers who rely on rights over and access to common resources:

"Thousands of small-scale farming communities in Thailand rely on the interrelationship between their forests, rivers, streams and paddy fields to sustain agricultural practices based on various cultural knowledge systems and indigenous traditions. These agriculture practices that provide food as well as medicine also forms an essential component for the increased self-reliance of national economic development in order to lessen the country's dependence on uncertain global markets. However, the use of economic measures such as water pricing will place a heavy burden on small-scale farmers, and could result in displacing and impoverishing hundreds of small-scale farmers growing rice and other cash crops for subsistence as well as for sale in local village-based economies." ^[13]

One major shortcoming in the structure and administration of our engagement with the ADB is the lack of independent Australian Government monitoring and evaluation of ADB performance. Australia relies almost solely on the Bank's evaluation and assessments of its effectiveness and to date the ADB has not incorporated any analysis of the impact of its activities on human rights in such assessments.

The ADB has joined other MDBs in adopting poverty reduction as its main goal. Community Aid Abroad believes that if institutions such as the ADB expect countries like Australia to continue to support them, they must ensure that rights are upheld and enhanced through their activities.

1.9 Recommendations

- Upgrade the AusAID's existing human rights section to a specialist human rights unit with responsibility to advise on the integration of human rights into AusAID's program to provide expert human rights advice to AusAID country program staff and to liaise with Australian NGOs.
- That the Australian Government investigate the progress made by the UK and Swedish Governments in implementing a human rights approach to their overseas development programs development.

¹³ Sayamol Kaiyoorawong. ADB-funded water privatisation programme in Thailand. Summary of Presentation at Conference on "Accounting for Development", June 23-24, 2000, University of Sydney.

- That the Australian Government double the level of funding for basic social services in the aid program (to approximately \$400 million) in order to meet Australia's fair share of the cost of providing basic social services for all people consistent with Eurostep's analysis.
- That AusAID implement a comprehensive human rights training program to improve AusAID staff knowledge of the international human rights framework and the human rights approach to development.
- That the Australian Government contribute financial support to the joint UNDP/UNCHR Human Rights Strengthening project (HURIST) which provides expert advice on the integration of a human rights perspective to development co-operation.
- That the Australian Government implement a 'whole of government' approach that fully operationalises its commitment to the principles of human rights indivisibility, universality and inalienability.
- That the Australian Government re-affirm Australia's commitment to unequivocally respect the role of the UN treaty bodies and human rights mechanisms and provide effective support to the UN treaty committees so that they can enhance their research and analysis capacity.
- That the Australian Government allocate increased funding within the Indonesia program to assisting with implementation of the Indonesia National Action Plan for Human Rights, and for national human rights institutions such as Komnas HAM and its regional branches.
- That the Australian Government advocate explicit recognition of international human rights standards as a benchmark for development programming through the Asian Development Bank.
- That the Australian Government develop the capacity to independently monitor and evaluate the impact of Asian Development Bank operations against international human rights standards.
- That the Australian Government implements mechanisms that facilitate the monitoring and evaluation of all its foreign interventions in relation to the promotion of human rights.

SECTION 2

The utility of differing aid instruments and channels for advancing human rights, such as-

- *project aid, for example for schools, hospitals and basic infrastructure;*
- *microcredit, particularly through institutions such as the Grameen and Women's Bank, as a means of advancing the human rights of women;*
- *debt reduction of Heavily Indebted Poor Countries (HIPCS).*

2.1 Debt Reduction

The stated aim of the Heavily Indebted Poor Countries (HIPC) Initiative is to leave heavily indebted countries with a sustainable debt profile, and to provide resources for poverty reduction.

Community Aid Abroad - Oxfam Australia welcomes the Australian Government's \$55.5 million contribution to the HIPC and enhanced HIPC initiatives together with the decision to cancel the bilateral debts of Ethiopia and Nicaragua as they gain debt relief through the HIPC. Community Aid Abroad - Oxfam Australia also supports the Government's positive step in being part of the multilateral framework providing a moratorium for Nicaragua on its bi-lateral debts, put in place after Hurricane Mitch in 1998.

Debt reduction to sustainable levels is imperative if Heavily Indebted Poor Countries are to be in a position to uphold their international human rights commitments, particularly in relation to the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child.

However, it is increasingly clear that HIPC Initiative is proving inadequate to deliver a clear exit from an unsustainable debt burden for indebted poor countries and requires fundamental reform.

The limited budget savings provided through the enhanced HIPC Initiative suggests that some of the world's poorest countries will continue to transfer far more to their creditors than they will be able to invest in services such as basic education and primary health care-services enshrined as fundamental human rights under the International Covenant on Economic, Social and Cultural Rights.

IMF-World Bank staff reports, prepared for the 2000 World Bank & IMF annual meetings, cited large financial gains for the HIPCs suggesting that the amount of debt relief provided to a group of 32 countries will double to \$28bn (in net present value terms), reducing the average debt-to-export ratio by 41 per cent to 138 per cent at decision point, and to less than 100 per cent by 2005. However, research carried out by Oxfam International suggests these headline figures grossly exaggerate the real benefits of the HIPC Initiative.

In the first in-depth analysis of the implications of the Initiative for government finances, the research suggests that the annual budget savings for most countries will be modest. Some countries - including Senegal, Tanzania and Zambia - will emerge from the HIPC

debt relief process in the perverse position of paying more on debt servicing. Debt repayments will continue to absorb a disproportionately large share of government revenue, amounting to more than 15 per cent in six countries, and to over 40 per cent in Zambia, Cameroon and Malawi. All but three of the 12 countries reviewed in the Oxfam research will continue to spend far more on debt servicing than on health and primary education after they have received debt relief.

As a group, the heavily indebted countries suffer from some of the deepest and most pervasive levels of poverty in the developing world. Over half of the population lives below the \$1-a-day poverty line, one-in-six children die before the age of five from poverty-related diseases, and almost 50 million children are not in school. To demand that governments in these countries spend more on debt servicing than on the basic health and education needs of their citizens is economically irrational, morally unacceptable, and at variance with the HIPC Initiative's proclaimed goals of providing a poverty-focussed debt relief framework.

In an attempt to assess the real implications of the HIPC Initiative for government budgets, Oxfam International has analysed post-HIPC debt service projections for 13 countries. Eight of these countries have reached their decision point and benefit from assistance under the enhanced HIPC framework.^[14] Another four were expected to receive enhanced HIPC support in 2000.^[15] The potential budget effects of debt relief were captured by taking the average annual level of debt repayment projected for the three years after countries reach decision point. This figure was then compared with government revenue in the decision point year.

The findings suggest that the benefits of the HIPC Initiative in terms of reduced debt servicing will be significant for a small group of countries, negligible for a larger group, and non-existent for several (Figure 1 & 2):

- Increased debt servicing for three countries. Zambia, Tanzania and Senegal all face an increase in debt service payments. The largest increase will be in Senegal, where debt service payments will almost double to \$171m, reflecting the large pre-HIPC Initiative gap between scheduled and actual payments. In Zambia an increase in repayment to the IMF will raise annual debt servicing by \$75m, or one-third.
- Limited benefits for four countries. Debt service payments will fall by less than 20 per cent for Burkina Faso, Honduras, Guinea, Malawi, and Mauritania.
- Significant savings for five countries. Debt servicing will fall by 30 per cent or more for Bolivia, Cameroon, Mozambique, Rwanda and Uganda.

¹⁴ Bolivia, Burkina Faso, Honduras, Mauritania, Mozambique, Senegal, Tanzania and Uganda

¹⁵ Zambia, Malawi, Rwanda and Cameroon

Debt servicing will continue to absorb a large share of government revenue in most countries, amounting to;

- 40 per cent of total revenue in Zambia
- 25-35 per cent of the total in Cameroon, Guinea, Senegal and Malawi
- 15-20 per cent in Honduras, Mozambique, Tanzania and Mauritania
- 13-14 per cent in Burkina Faso and Mauritania

In terms of the provision of basic social services defined as fundamental human rights under the International Covenant on Economic, Social and Cultural Rights, Oxfam International compared projected post-HIPC Initiative debt servicing obligations in 12 HIPC countries with actual spending on health and primary education in 1999. This comparison showed that;

- there are eight countries in which debt service payments will exceed the budgets for health and education
- in five of these countries (Zambia, Tanzania, Senegal, Mauritania and Cameroon) debt repayments will exceed the combined health and education budgets after debt relief.

2.2 Recommendations

- That the Australian Government advocate for the IMF and the World Bank to undertake the following reforms to the enhanced HIPC initiative in order to deliver on the commitments made by creditors to provide a permanent exit from the debt crisis;

Implement a new approach to debt sustainability.

It is fundamentally unacceptable for countries suffering widespread extreme poverty to spend more on debt servicing than they invest in the health and education of their citizens. No country emerging from the HIPC Initiative should be required to allocate an amount equivalent to more than 10 per cent of revenue to debt servicing. IMF-World Bank debt sustainability analyses should include projections for the amount of government revenue to be allocated to debt servicing.

Immediate debt relief to countries which commit to a 'Poverty Fund' in the Interim Poverty Reduction Strategy Paper (PRSP).

There is an urgent need to accelerate implementation of the HIPC initiative, and to strengthen the linkage between debt relief and poverty reduction. Current approaches have become unduly bureaucratic, causing delay in the provision of debt relief. New approaches to eligibility are urgently needed.

At the decision point governments should be broadly on-track with their macro-economic programmes. But the key requirement for entry into HIPC should be the development of a poverty action fund, detailing how debt relief finance will be allocated to poverty reduction initiatives. Implementation of the

fund would be monitored by government, civil society and donors. Obvious priority areas would include health, education, rural roads, water supply and employment generation programmes. Such an action fund was pioneered in Uganda, where a Poverty Action Fund helped to finance Universal Primary Education, basic health and rural feeder-road programmes. The use of debt relief to eliminate charges for basic education and health is one option with potentially large human development returns.

The extension of the HIPC framework.

IMF-World Bank staff should review the debt sustainability of countries such as Vietnam, Nigeria and Jamaica not covered by the existing HIPC framework and facing chronic debt problems.

- That the Australian Government place all payments on the \$72.5 million owed by Ethiopia and Vietnam into a trust fund. In doing this, Australia would follow the lead of Britain, which announced in December 2000 that it would place all debt repayments owed to it from all 41 nations on the HIPC list in trust until they become eligible for debt relief.
- Actively supporting calls by the United Nations Secretary General to create a new 'fair and transparent international arbitration mechanism' to mediate the relationship between creditors and debtors.
- That the Australian Government provide funds under the aid program for capacity building amongst civil society organisations in the HIPCs to enable them to better participate in the PRSP process.
- That the Australian Government establish an inter-ministerial committee to monitor the HIPC process and other debt issues relating to Australia.
- That the Australian Government actively supporting the recommendation of the recent meeting of Commonwealth Finance Ministers to consider establishing a forum comprised mainly of HIPCs themselves to provide regular input into the process of shaping the HIPC Initiative.

SECTION 3

Activities supported under the Human Rights Program, including small activities, the Asia-Pacific Forum, the Centre for Democratic Institutions and the UN Commissioner for Human Rights.

Community Aid Abroad notes and supports the Australian Government's commitment to human rights as reflected in the aid program through:

- The Human Rights Small Grants Scheme
- Contributing to the National Human Rights Institutions Initiative
- The Centre for Democratic Institutions
- Support for Komnas Ham in Indonesia
- The Human Rights Technical Cooperation Program in China
- Funding of the Asia Pacific Forum for National Human Rights

3.1 Human Rights Small Grants Scheme

Community Aid Abroad - Oxfam Australia welcomes the increase in funding of the Human Rights Small Grants Scheme from \$500,000 to \$800,000 in the 2000-2001 budget as a welcome addition to support for specific grass roots human rights activities. Increasing interest in the scheme indicates that it has considerable scope for expansion, especially in the Asia Pacific Region. Further additional funding for the Human Rights Small Grants Scheme will demonstrate that Australia is equally committed to grass roots activities as it is to developing democratic institutions through the Centre for Democratic Institutions.

3.2 The United Nations High Commissioner for Human Rights (OHCHR)

In 2000, the Office of the High Commissioner for Human Rights (OHCHR) launched a Plan of Action to address issues associated with its effectiveness being undermined through an insufficiency of resources. To fund the Plan the High Commissioner sought voluntary contributions from Member States.

The argument for specific funding for OHCHR is a strong one. There has been a substantial increase in the volume of work expected of and undertaken by OHCHR, including expansion of human rights protection activities in the field, the creation of new mandates, more treaty ratification and an increasing number of requests from governments for technical Co-operation

Community Aid Abroad - Oxfam Australia regrets that the Australian Government has declined to provide financial support for the OHCHR Plan of Action or previous requests for fund to assist upgrade the operational capacity of the OHCHR. The Australian Government has an opportunity to demonstrate its support for the OHCHR by making a contribution to the 2001 appeal.

3.3 National Human Rights Institutions

The NHRI's program is an important contribution in the Asia Pacific region to building long-term sustainable institutions for the promotion and protection of human rights.

Australian funding to the Office of the High Commissioner for Human Rights Voluntary Trust Fund for the global NHRI program has been in the order of \$1.3 million. An additional \$225,000 has been contributed to supporting the Secretariat to the Asia Pacific Forum located in the Australian Human Rights and Equal Opportunity Commission (HREOC).

Direct funding to the Asia-Pacific Forum is due to end in June 2001. The Forum is proceeding to incorporate as an independent institution and aiming to become a self-sustaining entity.

The Forum is in its early stages of development and provides essential support to national commissions that vary widely in capacity and expertise and it is important that a fully functioning Secretariat continue to support the Forum and its activities. A renewed funding commitment is essential to prevent a possible collapse of the organisation and to provide continuity in operations during the transitional phase.

3.4 Recommendations

- That the Australian Government increase funding of the Human Rights Small Grants Scheme and publish a public information brochure on the scheme in key languages for distribution through relevant networks in the Asia Pacific Region.
- That the Australian Government provide financial support for the OHCHR Plan of Action to upgrade the operational capacity of the OHCHR.
- That the Australian Government provide specific funds to support the activities of the OHCHR in the field and particularly in the Asia-Pacific region and contribute specific funding to support for the activities of the OHCHR to protect the rights of particularly vulnerable groups.
- That the Australian Government maintain existing funding to the Asia-Pacific Forum Secretariat for an additional three years to support the Forum's transition to self-funding status and ensure there is no loss of capacity in the Secretariat.
- That the Australian Government earmark funds to support NGO participation in the Asia Pacific Forum to enable a larger number of civil society organisations to attend the annual meeting of the Forum which will be held in Sri Lanka in 2001.