

**JOINT STANDING COMMITTEE
ON FOREIGN AFFAIRS, DEFENCE AND TRADE
INQUIRY INTO THE LINK BETWEEN AID AND HUMAN RIGHTS**

**SUBMISSION BY
THE HUMAN RIGHTS COUNCIL OF AUSTRALIA INC
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1. HRCA

The Human Rights Council of Australia (HRCA) is a private NGO that has had a lengthy association with Australia's official development agency. The relationship began in the early 1990s when HRCA first proposed a project to explore the relationship between human rights and development assistance with the intention of contributing to what was then AIDAB's search for better ways of promoting the observance of human rights in developing countries. AIDAB provided financial support for an international symposium held in Parliament House Canberra in early 1995 when HRCA tabled its report, *The Rights Way to Development: A human rights approach to development assistance* for comment. That report found that the debate on the relationship between human rights and development assistance – not only in Australia but within international development circles – was circumscribed by an undue focus on negative conditionality and by an overly managerial culture that tended to excessively limit participation. The report found that there was limited understanding of the normative and core contents of economic, social and cultural rights and too little attention paid to genuine and meaningful participation as called for in international human rights instruments.

The report made the following tentative recommendations:

- people involved in projects should have a thorough knowledge of the international human rights framework
- initial aid negotiations with the agency of the receiving government should make it clear which right is at issue. This includes the responsibility for the government to provide for the realization of this right if non-existent;

- feasibility studies should involve communities themselves in the design of the project, not only in its implementation;
- communities should be provided choices and then given undertakings regarding the project
- information should be provided including the communities' entitlements and their decision-making powers
- the timetable of outcomes should include the provision for penalty clauses
- access should be provided to the projects' decision-makers and to grievance procedures
- guarantees should be given in case of project failures to ensure the provision of services
- explicit provision for relevant information and skills regarding entitlements should be a standard part of any project package which may include, for example, financial provision for communities to provide their own advisors
- at the feasibility study stage, project designers should analyse the other rights that are breached (through omission or commission) in the area;
- consideration should be given to whether the project can address these or how else they can be addressed;
- these should be referred to in future negotiations with local and national governments;
- negotiations with provincial and local government authorities should make it clear that the specific right is at issue;
- the responsibility for project evaluation and monitoring should include the participation of communities;
- the latter should be encouraged to advise the donor agency of problems even after the project is terminated;
- the donor agency should accept the responsibility of advising the recipient government at local and national level of these problems

A few of these recommendations were have since become part and parcel of most donor's standard operational procedure. At the time, however, the Council was requested by the donor community to be more specific about changes that the human rights approach would require of development professionals.

In response, the Human Rights Council researched and eventually published *The Rights Way to Development Manual*. This was an attempt at providing some step by step suggestions in a manual format familiar to development agency staff of what the human rights approach meant for actual practice. The Manual outlined four distinct steps to the implementation of a human rights approach to development:

1. A thorough human rights situational analysis.
2. The setting of explicit human rights objectives which include the realization of economic, social and cultural rights.

3. Appropriate strategies to implement the human rights objectives.
4. An effective monitoring process and mechanisms for encouraging compliance.

We emphasized that in the analysis stage and when setting objectives it is essential to deal with each right separately and to take account for each right of the state obligations to respect rights, to protect rights and to fulfil rights. Only in this way can appropriate benchmarks be identified and evaluated and only in this way can the concept of 'progressive realization' be re-invested with meaning.

We outlined the nature of the participatory process at each stage and proposed mechanisms to ensure meaningful participation.

Finally, in order to ensure accountability, we proposed a mechanism for reviewing complaints and breakdown of contracts between donor and recipient (this is modelled on the World Bank's Independent Monitoring and Inspection Panel).

Based on these two publications, HRCA's work has been recognized internationally. We have been contracted as international consultants by UNICEF and UNDP in Nepal; the Executive Director was asked by the High Commissioner for Human Rights to be a resource person and prepare the background document for the Asia-Pacific Regional Workshop on Economic, Social and Cultural Rights and the Right to Development; he was also invited to be on the concluding panel at the UNDP/OHCHR- sponsored Oslo Symposium on Human Development and Human Rights; and most recently HRCA was asked to facilitate an international workshop on the promotion of a human rights approach to development cooperation jointly hosted by the Swedish Ministry of Foreign Affairs, the Swedish International Development Agency and the Swedish NGO Foundation for Human Rights. Unfortunately, we have not met with such a favourable reception in our home country.

It is with this background in mind that HRCA welcomes the inquiry into the link between aid and human rights in the hope that some of the recommendations we make below will prove of assistance to the Human Rights Sub-Committee and that if they are taken on board by the Committee they will generate greater interest by AusAID than has been the case to date.

2. Good governance and accountability

Accountability is key to the protection and promotion of human rights. It is the state that is accountable by virtue of the social contract between government and the citizen. The obligations of states are codified in the international human rights instruments and the UN system has elaborated a number of procedures to measure the degree to which governments are meeting their obligations. Through such mechanisms as the UN Treaty Bodies and the Special Rapporteurs and Independent Experts, the UN is able to assist by making recommendations for improvement. The 2000 Human Development Report in fact argues that it is accountability that is the major added value of a human rights approach to development.

One of the recent terms that has come into the language to cover the notion of accountability is 'good governance'. Unfortunately, the term has acquired so many meanings that its relation to human rights is tenuous. The Australian Government in its active promotion of the Right to Development in international forums has linked the realization of this right to good governance in an effort to gain acceptance of the need to combat corruption by governments in developing countries. However, 'good governance' is a contested term that has generated a good deal of anxiety among human rights advocates.

The 1986 Declaration on the Right to Development is a useful instrument in the promotion of human rights. It obligates governments to remove obstacles to development arising from the failure of states to respect human rights codified in international law and to prevent non-state actors from creating these obstacles. Since it states that ‘the human person’ is the subject of development entitled to work for and participate in the benefits of development, the Declaration can be usefully quoted in support of the meaningful participation of organizations and communities in decisions and actions that affect their lives.

The use of ‘good governance’ arises from a perception that governments in developing countries will prove less resistant to such euphemisms than to talk of ‘corruption’ or ‘human rights’. However, the term ‘good governance’ lacks precision and is interpreted differently depending on the speaker. For the international financial institutions ‘good governance’ means public sector accountability and economic management in line with current economic orthodoxies. For some development agencies it means establishing mechanisms to combat corruption and ineffective management. For yet others it means establishing democratic institutions (often simply supervised elections) and/or the rule of law; this is the usage of the term by the Centre for Democratic Institutions. Finally, some governments use ‘good governance’ as a synonym for ‘human rights’, sometimes meaning the safeguarding of civil and political rights other times as an abbreviation for the domestic application of the International Bill of Rights.

That these widely differing meanings for the term exist points to the problems associated with its usage. These range from lack of precision within AusAID when dealing with other governments; confusion among AusAID’s partners, especially non-government actors; and inconsistency of policy when supporting the programmes of multi-lateral development agencies, particularly the World Bank. Clarity in the use of the term is sorely needed.

HRCA does not want to downplay the need on occasion for diplomatic language and euphemism to achieve human rights objectives. We support the principle of an ‘emphasis on the practical and achievable’ as expressed by the Minister for Foreign Affairs. However, we are concerned that in definitional vagueness the very precision provided by the international human rights framework and the expertise that has grown around it will be dissipated. However, we should avoid a repeat of AIDAB’s early nineties report to the Parliament when it demonstrated its commitment to human rights by simply relabelling past project which could now be dubbed ‘good governance’. Good governance is essential to the realization of human rights but not synonymous with it.

One example of the problem is the focus on decentralization which has influenced most donors’ programmes. Decentralization is seen as a means of ensuring that local communities are in a position to oversee the performance of local government and thus keep the latter honest. It is seen as necessary to achieve good governance. While decentralization is often perceived as a means of combating institutional corruption at the national level – donor funds all too often find their way into already rich pockets in capital cities – claims are also made for it advancing the cause of human rights. However, care must be taken that decentralized authorities, also, are held accountable for the realization of human rights and this must be made clear to all the stakeholders.

Recommendation

- 2.1 All country strategy papers and project design documents should incorporate explicit human rights objectives elaborating the level of accountability expected of donor partners¹.

¹ It should be made clear that accountability also applies to donors themselves as well as to development NGOs. See *The Rights Way to Development Manual*, HRCA, Marrickville, 1995

- 2.2 Programmes supporting decentralization should be explicit about the obligations of local authorities to respect, protect and fulfil human rights.

The terms of reference of the Inquiry single out ‘channels for advancing human rights, such as ...microcredit’. Savings and microcredit schemes have become extremely popular among development agencies, both governmental and non-governmental. This is not the place to raise some of the questions about the long-term sustainability of these schemes. However, one issue within the terms of reference of the inquiry is just precisely how they ‘advance the human rights of women’.

If it is accepted that human rights – civil, cultural, economic, political and social – are universal, and that governments – including donor governments – are to be held accountable for the ultimate realization of human rights, then the obligation remains to address the rights of those who are most denied. Most savings and credit schemes leave some people behind, whether because they can not raise the initial levy contribution or because they are excluded by virtue of their race, religion or ethnic origins. These women and men are denied their rights and it is governments – local, national or international – who remain obligated.

HRCA is not arguing about the value of these schemes. However, without a human rights perspective they can actually lead to further discrimination. It is therefore important that built into these is the concept of the accountability of the authorities for those who are discriminated against or denied their rights for whatever reason. Decentralization is also relevant here because the responsibility for the realization of rights – particularly economic, social and cultural rights – devolves to the local government authorities.

Recommendation

- 2.3 Support for microcredit projects should require provision for an analysis of those who are excluded from participation in the microcredit scheme and consideration of how the rights of these are to be addressed. The obligations of the local authorities to respect, protect and fulfil rights should be built in to the dialogue with the beneficiaries.

3. Economic, social and cultural rights

The second of Mr Downer’s principles underpinning Australia’s aid programme is ‘a responsiveness to urgent needs and development trends’. Unquestionably there is a trend among many bilateral and multilateral donors to adopt a human rights approach to development cooperation. Those adopting this approach include some of the Nordic donors as well as a number of UN development agencies (UNDP, UNICEF, the ILO). Despite the Minister’s articulation of six principles underpinning the relationship between human rights and aid, Australia is firmly among those countries that have rejected the human rights approach to aid, just as Australia has rejected the other trend to adopt the OECD’s international development targets arising from the World Summit on Social Development.

Rejection of the human rights approach does not prevent promotion of human rights through aid – or deny that there are links between aid and human rights.

The problem is that whether one adopts the approach *in toto* or not, any program that lays a claim to wishing to promote human rights requires a thorough understanding and familiarity with the normative and core contents of human rights. Back in 1994 when HRCA first began to explore the human rights approach to development cooperation, the term ‘human rights’ was almost universally identified with civil and political as enunciated in the International

Covenant on Civil and Political Rights. Promotion of human rights was synonymous with the promotion of free speech, freedom of assembly and the condemnation of arbitrary arrest, detention or torture. When AIDAB was asked to report to the Human Rights Sub-Committee of the Joint Committee on Foreign Affairs, Defence and Trade, the organization compiled a list of those projects which were seen to promote civil and political rights – in some cases in an exercise of retrospective labelling².

The Vienna Conference on Human Rights in 1993 reaffirmed the indivisibility of human rights. As a result, NGOs, human rights experts and the UN system itself have been looking at the implication of this principle as it applies to the promotion of economic, social and cultural rights. In the early nineties it was taken as a given that all development projects would contribute directly to the realization of economic, social and cultural rights and that there was therefore no need to focus on the nature of these rights in development programming. The growing pool of expertise on economic, social and cultural rights strongly contests this position and those who now speak of adopting the human rights approach also take into account the normative and core content of economic, social and cultural rights in their country analyses, country strategies and evaluations.

It should be unnecessary to point out at the beginning of the twenty first century that economic growth and social development alone do not necessarily lead to the realization of economic and social rights. The growing gap between rich and poor that characterizes life under globalization in both developed and developing countries is evidence enough that this is not the case. Poverty is itself a violation of human rights and the UN Independent Experts and Special Rapporteurs on the effects of structural adjustment policies and foreign debt, on the Right to Development, on poverty, on the Right to Education and other thematic issues have all drawn the link between poverty and the denial of human rights.

Yet even though much is made of poverty reduction in the programmes of both bilateral and multilateral development agencies, all too often the denial of human rights as a causal link to poverty is left as an assumption rather than a programme tool. It is not enough to speak of education as one of the prerequisites of the fight against poverty. Just as states have a legal obligation to ensure that accused persons have access to a fair trial, so they have an obligation to provide universal, compulsory and free primary education. Promoting and protecting the right to education is not simply a matter of increasing the national education budget. The realization of the right to education depends on focusing on issues of discrimination and access to education, especially at the primary school level; of taking into account the degree to which local communities can exercise their right in guiding education and in providing support for their children's education. It is not necessarily about buildings but about the resources and policies to enable all children to enjoy the right, regardless of their geographic location, their gender, race, language or ethnic origin.

This is not immediately self-evident by simply reading the text of the Covenant and the work of many legal and other experts have for many years gone into the exploration of the juridical and programmatic implications of the realization of each of the rights in the International Bill of Rights. HRCA has itself tried to show how a precise analysis of the state obligations to respect, to protect and to fulfil rights can help in establishing clear human rights objectives in development programmes and in delivering on these objectives³.

² This practice was discussed at an internal workshop convened by AIDAB attended by HRCA as well as by academic experts and some parliamentarians. Mr. Downer's principles, therefore, represent a welcome shift in understanding of the potential role of aid that needs more than relabelling of existing practice and actual changes in pr.

³ *The Rights Way to Development Manual*, HRCA, Marrickville, 1995. See also *Economic, Social and Cultural Rights and Development Cooperation*, Michael Windfuhr, Executive Director of Food First

‘Social movements around the world are capitalizing on freedom of speech and association and exercising the right to participation – to secure economic, social and cultural rights and advance human development’⁴. It is most often in the struggle for economic, social and cultural rights that people’s civil and political rights are violated. There is a strong argument therefore that aid should identify specific human rights objectives for the realization of economic, social and cultural rights in order to prevent at least some of the abuses of civil and political rights that Australia’s aid programmes seems to be focused on.

Accordingly there is a need for programme staff who are charged with applying the principle of ‘targeting through clear priorities’ to their projects to be familiar with the body of experience relating to the realization of economic, social and cultural rights and what this means for their practice.

Recommendations

- 3.1 Human rights training of programme staff should include familiarization with the practical steps required to realize economic, social and cultural rights as well as civil and political rights
- 3.2 Project design documents should identify and be explicit about the specific human rights objectives of each project
- 3.3 AusAID documentation such as guidelines, promotional material and memorandums of understanding should refer broadly to human rights objectives within each country programme

There is a considerable literature available for use in raising awareness of programme staff of the normative and core content of human rights and on other donors’ and NGOs’ experiences in applying a human rights approach to development cooperation. However, it appears that not only are most AusAID staff unaware of the existence of such material but, even when they are, it is not readily accessible in the reference library of the organization. It came as somewhat of a surprise to the Council that its report – whose publication was actually supported financially by the Government – could not be accessed by staff on request.

More specifically there is a great deal of human rights information that can be of assistance to programme officers on specific country situations. Thus the UN human rights Committees have provided guidance on the information that they find useful for their assessment of periodic country reports⁵ and their Concluding Observations make precise recommendations for improvement of the situation of human rights. Institutions such as the ILO, UNICEF and UNDP – its Human Development Report is an invaluable reference – also contain essential information to add to the country picture.

Recommendations

- 3.4 Reference material⁶ on the link between aid and human rights should be made readily accessible to AusAID staff and its existence brought to their attention.

Information and Action Network, in *Working Together*, Report of the Stockholm Workshop on the Human Rights Based Approach to Development Cooperation, Sida, forthcoming

⁴ *Rights empowering people in the fight against poverty*, Chapter 4, Human Development Report 2000, p.75

⁵ The UN Manual on Human Rights Reporting is a useful tool.

⁶ The most recent document of this type is the report of the October 2000 Swedish Foreign Ministry-hosted international workshop on the Promotion of the Human Rights Approach in Development

- 3.5 DFAT representatives at the UN should be requested to convey to AusAID desk officers relevant country and thematic information from the ILO, the UN Treaty Monitoring Bodies and the Independent Experts.

4. Participation

The participation of people in decisions that affect their lives is affirmed in the Declaration on the Right to Development and represents a manifestation of the indivisibility of human rights: through the expression of their civil and political rights people can participate in demands for the realization of their economic, social and cultural rights. Participation is a concept that has passed into the policies of all donors including into the policies and practices of AusAID. Unfortunately, just as with the term 'good governance', there is considerable variance in what people mean by participation, how it is applied and how it can be enabled.

One key dimension of participation is the active provision of information based on which people can make informed decisions. It has been the experience of HRCA that documentation on country strategy, situational analysis, programme and project design, and evaluation is rarely if ever available to recipient communities. This is not a problem limited to AusAID alone. For example, it is not uncommon for the World Bank to make its Poverty Reduction Strategy Papers available to civil society organizations one day before comments are due in – an impossible task given the complexity of the issues discussed.

If we are to be genuine about meaningful participation, then we must do our utmost to share information and to do so not simply on request but through its active provision. At the very least, communities in recipient countries should be aware of the policies of the donor agency, its priorities and its attitude towards the promotion and protection of human rights. For participation to be genuine, information needs to be provided in time and in a form that is accessible (i.e. in the local language and, if not free, at least affordable). The example that is then set by the development agency of involving people in decision making and of insisting on donor transparency has the potential to contribute to the evolution of civil society and to convince the recipient government to do likewise.

The participation of civil society organizations (CSO) – and these are not identical with the term 'NGO' but can include them – in forums that decide development priorities for their country should be automatic. While there are developing country governments who resist the inclusion of CSOs and NGOs, the responsibility remains with donors to encourage this participation wherever possible. One example is the World Bank-sponsored donor consortiums. It is only very recently that any NGOs have been invited to participate in such consortia, and that only as observers⁷. Yet these decide the future directions of development cooperation that will affect the whole citizenry. Similarly, donors seldom if ever allow CSO participation in the drafting of their country strategies although they do draw on NGO expertise to conduct their situational analyses.

Recommendations

- 4.1 AusAID should facilitate Australian and recipient country NGO and CSO participation in the analyses leading to the drafting of Country Strategy Papers.

Cooperation. The Executive Summary of that report is attached to this submission as an appendix for the information of the Committee.

⁷ The International Forum on Indonesian Development has been invited as an observer to the Consultative Group on Indonesia. Xanana Gusmao and Jose Ramos Horta were the only Timorese invited to the Tokyo meeting on East Timor in Tokyo on December 1999.

- 4.2 Guidance on the priorities for the country strategy should be sought from NGOs and CSOs as well as recipient government.
- 4.3 Project design documents should be shared as a matter of course with the communities affected by their outcome in an accessible format.
- 4.4 The Australian Government should advocate for the participation of CSOs in the World Bank's forum deciding the direction and quantum of aid to each country.
- 4.5 The Australian Government should encourage the World Bank and other multilateral banks to allow sufficient time for meaningful participation in the formulation of Poverty Reduction Strategy Papers.

5. Coordination

The Australian Government has shown leadership in post-election East Timor and is one of the principal providers of aid for the reconstruction of the country. The responsibility that Australia has accepted for this endeavour has been praised widely at the UN and by both bilateral and multilateral donors. The World Bank in particular has been highly complimentary of Australia's efforts to maintain the peace and to rebuild a land devastated by Indonesian-backed militias.

Yet there is a great deal of dissatisfaction voiced by the Timorese about perceived failures of the aid provided and of the performance of government and NGO donors who have flocked to East Timor during the past year and a half. HRCA warned that this might occur as far back as April 1999 even before the election that was the catalyst for the mayhem perpetrated by the Indonesian army and its surrogates.

We have now witnessed an unseemly rush by both official donors and NGOs to the devastated territory, an uncoordinated race to peg out territory for assistance, with an increasingly marginalized Timorese community much of which is becoming dependent on aid that can be characterised as welfare rather than assistance.

HRCA proposed that an international donor conference be held that would bring together donors and various factions of the Timorese community to consider what we dubbed 'a sustainable future for East Timor'. This proposal won support from the Office of the High Commissioner for Human Rights and from some within the World Bank. However, AusAID was opposed to the concept and advised the Foreign Minister accordingly – it considered that the donor consultative group convened by the World Bank in Tokyo at the end of 1999 was sufficient. In the light of subsequent events it might be informative to quote from that April 1999 proposal:

“The experiences of recent emergencies in similar transitional states give rise to some concern about the future of this development assistance. The UN's record in Cambodia is a case in point. The massive inflows of funds and equipment only served in the main to produce an unholy scramble for these resources and initially resulted in very little institution-building and very erratic human rights protection. The corruption surrounding funds and materiel has been well-documented and the fall-out of the unplanned provision of assistance remains obvious today.

Anecdotal evidence also supports the view that the rush to assist Indonesian NGOs by official and NGO donors following the fall of Suharto with the intention of developing 'civil society' has been less than effective and that the absorptive capacity of the recipients has in the main

been ignored. Some claim similar problems with Bougainville in Papua New Guinea. It is difficult to escape the conclusion that development assistance in these cases was unplanned, uncoordinated and ill thought out, the beneficial results of which have proved to be unsustainable. The lesson seems to be that long-term planning and co-ordination is essential to ensure sustainability.

... Participation in a donor roundtable by the Timorese stakeholders as well as the many official and non-governmental donors is essential. It will enable warring factions to meet on neutral ground while at the same time impressing on them the willingness of the international community to act in concert to address their problems. It will lay the groundwork for orderly co-ordination among donors and allow strategic ideas for development to emerge in a systematic way. Finally, it will firmly establish the nature of the partnership between the Timorese and the outside world.”

We raise this example to highlight the essential need for donor coordination if efforts are to be successful in ensuring that the human rights of people in countries that are the recipient of aid are respected, protected and fulfilled. This submission does not seek to deny that matters of national interest – including national security – and economic interest are legitimate concerns when considering the provision of aid. However, if we are serious about ‘advancing human rights in developing nations through the use of foreign aid’, and if we want maximum results then consideration must be given to relinquishing some of our proprietary consideration in the delivery of that aid⁸.

Coordination is, of course, not a one way street. Other donors have their own policies and national interest to guide them and it is unlikely that there will ever be a single approach to development assistance to a specific country that all will agree to. However, the lesson of Cambodia and East Timor should be taken on board and donor coordination encouraged, not only in the national interest, but also to ensure sustainability. Indeed, the examples of the UN Development Assistance Framework and the World Bank’s Comprehensive Development Framework are striving precisely to these ends.

Recommendations

- 5.1 AusAID should work closely with other donors when conducting country analyses and share its insights on human rights assessments with other donors
- 5.2 Country analyses should be shared with civil society organizations in donor and, especially recipient countries
- 5.3 AusAID should host donor conferences that include participation of civil society organizations in countries to which Australia is a major donor

It is not only among donors that coordination is of prime importance in order to avoid the kind of duplication and waste that can so easily occur in the delivery of development assistance. The credibility of governments’ endeavours to promote human rights is undermined when different arms of donor governments send mixed messages to the recipient country. We are all familiar with the diplomat who points out to her or his counterpart in the Foreign Ministry of a developing country that s/he is forced by domestic concerns to raise human rights cases but that this should not impact on the relationship between the two. This was certainly the case in Australia’s former relationship with Indonesia.

The human rights message is subverted when the Trade, Defence and Immigration Ministries convey to the recipient government that they are not too concerned about issues raised by the

⁸ The OECD evaluation of AusAID sees a tension between the level of aid that goes on Australian goods and services and its commitment to partnership.

Ministry of Foreign Affairs and the donor agency. In some cases trade policies can actually lead to the violation of economic and social rights and are at odds with poverty reduction strategies and human rights objectives. We are not suggesting here that negative conditionality should be raised at each and every turn. However, representatives of these Ministries have a role to play in reinforcing the seriousness of domestic concerns and can assist in legitimizing the human rights dialogue between donor and recipient government.

Recommendation

- 5.4 AusAID and DFAT should convene regular inter-departmental committees with the participation of other relevant departments to discuss the human rights objectives in country strategies and how representatives of each department can play a symbiotic role in the promotion of human rights.

6. Relations with the UN system

The Office of the High Commissioner for Human Rights and the UN Development Programme have signed a memorandum of understanding to collaborate on the promotion of human rights. The two organizations have been involved in a number of joint initiatives including the Oslo Symposium co-hosted with the Government of Norway and the UNDP policy document, *Integrating Human Rights with Sustainable Human Development*. Most recently the two launched the Human Rights Strengthening Project (HURIST). There are now HURIST pilot projects in all continents, including some aimed at the formulation of human rights action plans, an Australian proposal adopted by the Vienna Conference on Human Rights. The successful propagation of HURIST initiatives is dependent on donor contributions. Most wanted are financial grants although a number of donor governments have funded UN Volunteers to assist with HURIST projects.

Recommendation

- 6.1 The Australian Government should provide a sizeable grant to UNDP in support of the HURIST project.

The Minister for Foreign Affairs has reaffirmed that Australia support the UN Treaty Body system, albeit there is a need for special efforts to streamline its procedures in line with the UN Secretary General's call for UN reform. The obligation to report to the Treaty Bodies is an onerous one and is one important way to assess improvements in human rights as well as identifying shortcomings and how they might be addressed. Factors that prevent governments from producing their periodic reports include lack of funds and expertise and this is where development cooperation can be of great help while not costing very much.

Recommendation

- 6.2 AusAID should offer technical and other assistance to partner governments to enable them to fulfill their reporting requirements to the UN's human rights Treaty Monitoring bodies.

The integrity of the UN human rights monitoring system is dependent on accurate information. All too often, the Treaty Bodies are hampered by not being provided with accurate and balanced information. While NGOs can sometimes fill the gap – and the Treaty Bodies welcome information from such sources – there is a pool of additional information which should be made available. For example, each donor conducts situational analyses which are often detailed and comprehensive. The information therein could greatly assist the UN Human Rights Committees.

Recommendation

- 6.3 DFAT representatives at OHCHR should offer to make available to the Treaty Monitoring bodies data and information from AusAID when the Committees consider initial and periodic reports from countries in receipt of Australian aid.

7. The Development Assistance Committee (DAC) of the OECD

The DAC is an influential body whose review of donor's ODA is of great value, if often ignored. Australia has for a number of years now played a relatively low key role in influencing the DAC with the exception of its involvement in the debates on gender. As a small donor, Australia with its diminishing level of ODA does not have a strong voice among donors. However, its reputation following its leadership in East Timor should give it some influence to affect DAC policy.

At the Oslo Symposium in 1998, Bernard Wood the Director of the Development Cooperation Directorate of the DAC resurrected the claim that everything that the DAC countries were doing contributed to the realization of human rights including economic, social and cultural rights. Yet it was only a very few years before that the OECD convened a workshop on the human rights approach to development cooperation and commissioned a series of papers for a review which outlined a number of steps that might be taken to better integrate human rights in the action of the DAC member governments. Unfortunately these recommendations were not incorporated in the guidelines on participatory development, good governance, human rights and democracy⁹.

The DAC like many other multilateral agencies is increasingly talking about the poverty reduction approach to development. However, this is seldom if ever linked to the realization of human rights. This is despite the fact that the UN Rapporteur on Poverty as well as many others have pointed out the direct link between the two and have written extensively on steps that need to be taken to realize rights in order to attack poverty.

Discussion of human rights in general and economic, social and cultural rights in particular have not featured in the DAC discourse on poverty. Indeed, while there are a wide range of working groups dealing with various aspects of development, there is no available forum to focus on the realization of human rights. Such a forum would provide opportunities for regular exchanges of experiences in promoting human rights through aid in the context of poverty eradication strategies.

Recommendations

- 7.1 Australia should sponsor a workshop at the OECD focusing on the link between poverty reduction strategies and the human rights approach to development cooperation, and enlist support for this from like-minded donors.
- 7.2 The AusAID representative at the Development Assistance Committee of the OECD should be directed to advocate the establishment of a working group on poverty eradication and human rights.

⁹ *Participatory Development and Good Governance*, Development Co-operation Guidelines Series, OECD, 1995

8. The multilateral banks

The multilateral development banks have also adopted a poverty focus in recent years, the latest the Asian Development Bank. In addition, the World Bank's President circulated a discussion paper on the 'Comprehensive Development Framework' (CDF) which is now becoming accepted within the Bank as policy. The President has gone on record as saying that the Bank cannot remain focused on economic development alone and that 'social development is the other side of the coin of economic development'.

The World Bank has maintained that it is not mandated by its Charter to address human rights and this is the message that Ibrahim Shihata the World Bank's Counsel at the time conveyed to the HRCA-convened international symposium in Canberra in 1995 – once again equating 'human rights' with civil and political rights. However, the Bank, as a Specialized Agency of the UN should be guided by the Charter of the United Nations which clearly states the responsibility of the organization with relation to human rights.

There is thus a resistance to the integration of human rights in either poverty reduction strategies or in the other activities of the Bank. This should be seen in the context of an undisguised rivalry between the United Nations Development Programme which has embraced a human rights approach to development and the Bank itself. This unhealthy competition – the Bank is far more powerful financially – is reflected in the avoidance of any reference to human rights in the CDF and in the Bank's reluctance to engage meaningfully in the United Nations Development Assistance Frameworks that has, on occasion, adopted a human rights approach.

The Bank and its associated organs have come under severe criticism for its direct and indirect responsibility for human rights abuses in a number of the projects it has backed. To its credit, the Bank at least has an independent monitoring panel overseeing the impact of its activities – something that has yet to be copied by any bilateral donor.

Recommendations

- 8.1 The Australian Government should initiate a dialogue with the Bank on how the latter can incorporate human rights in its Comprehensive Development Framework.
- 8.2 The Australian Government through AusAID and with the assistance of economists and international legal experts should explore means by which the Poverty Reduction Strategies of the Bank can integrate economic and social rights in analysis and dialogue with indebted countries.
- 8.3 The Australian Government through its Executive Director at the Asian Development Bank should explore the integration of human rights in the ADB's strategies.

9. Humanitarian emergencies

Natural and man-made disasters call for prompt action from the international community to spring to the aid of the survivors. This expression of human solidarity generates massive support from the population in the developed world and the work of experts on humanitarian emergencies in donor and NGO institutions is widely praised. The Australian Government has been quick to provide assistance for the earthquakes in El Salvador and India as well as for reconstruction and rehabilitation in East Timor and Central Africa.

The urgency of the need for action in such cases leaves little time for developing longer-term strategies and for considering the human rights aspects of relief and development efforts. Echoing the concerns of a number of international non-government organizations¹⁰, HRCA would argue that when planning emergency relief how the human rights of the surviving populations will be protected in the future should be a major consideration.

Humanitarian emergencies are often accompanied by a breakdown of physical and political infrastructure. Most relief targets the former, all too often without adequate consideration to the impact of reconstruction on the rights of the poorest and most marginalized.

Reconstruction tends to focus on large infrastructure such as roads rather than taking an integral approach to infrastructure and services. For example in the case of the El Niño in Ecuador, the Center for Economic and Social Rights points out that the shortcomings of the relief effort included working almost exclusively through ineffective and non-democratic government institutions, failing to target vulnerable populations, failing to consider such issues as inequality, mono-industrial and destructive development models and allowing assistance to be channelled to elite and urban areas.

It should be made immediately clear that we are not suggesting that AusAID is necessarily guilty of similar lack of foresight. There is a need, however, to consider how international donors can promote human rights in their planning when they address humanitarian emergencies. In its promotion of human rights in the aid programme Australia could play a positive role by facilitating debate on this issue, perhaps drawing on the lessons of its intervention in East Timor and on the Ecuador example.

Recommendation

- 9.1 AusAID should facilitate an international discussion on the integration of long-term human rights planning in humanitarian emergencies.

10. Human rights training

In a recent speech to the Castan Centre for Human Rights Law Foreign Minister Alexander Downer asserted that “Australians care about human rights because they believe strongly in a fair go, they support the underdog and they take particular exception to abuses of power ... They also prefer to cut through rhetoric and do something useful”. Underlying statements such as these is the assumption that the concept of human rights is self-evident and that simple values such as a ‘fair go’ will enable one to identify abuses of human rights through sheer common sense. One should not read too much into a speech made by a politician at an academic conference. However, this has the potential to make life more difficult for programme officers seriously wanting to integrate human rights in their projects.

Department of Foreign Affairs and AusAID staff are offered regular courses on human rights and many people have now attended the one or two days offered since 1992. The courses were originally combined for DFAT and AusAID staff so that both received exposure to the international human rights system. The course was subsequently divided because AusAID staff considered that their requirements were different from those of the diplomats. More recently still a joint course is once again offered to those interested. While there is encouragement to take the course from some senior managers, human rights training is not part of the standard induction procedure for staff.

One of the criticisms levelled at human rights training courses in international NGO circles and at home is that many such courses perpetuate the perception that human rights are an add-

¹⁰ For example, Center for Economic and Social Rights and Oxfam

on to the regular work of the staff of the institutions to whom the courses are offered. This compartmentalization is exemplified by DFAT's Human Rights and Indigenous Section which has been seriously marginalized within the Department. Similarly, when human rights are seen as another so called 'cross-cutting' issue within the aid programme, it is easy to isolate human rights work as needing special expertise and of little relevance to the day to day activities of the agency.

At a recent international workshop¹¹ the point was made by the representatives of a number of bilateral and multilateral donor agencies that the mainstreaming of human rights within the donor agency is critical in gaining acceptance of the need to translate policy into programmatic reality. This suggests that human rights training – including awareness raising of what other donors are doing in the area – should be an integral part of the training offered to all staff at induction and throughout their careers.

Recommendations

- 10.1 The terms of reference of the institution contracted to conduct human rights training in AusAID should include devising ongoing training programmes that will be integrated in the career development of AusAID staff.
- 10.2 The contractor should be responsible for incorporating in human rights training the latest developments¹¹ in donor human rights policy and practice

11. Programme guidelines

In February 1999 AusAID convened a workshop with the participation of the Australian Baha'i Community, the International Women's Development Agency, the Australian Council of Overseas Aid, the Human Rights Council of Australia, Community Aid Abroad, the National Council of Churches in Australia, the Australian Red Cross, World Vision Australia, the Diplomacy Training programme and the Australian Catholic Social Justice Council. This wide cross section of organizations represented a pool of expertise in both development and human rights fields and the participants came from some of the most influential Australian NGOs. The purpose of the workshop was to draw on their experience for advice on the implementation of Mr Downer's six principles (page 15 of the Information booklet). The workshop made many recommendations including

- the incorporation of human rights objectives into project design documents
- documentation of Australia's human rights treaties as a reference for the development of Country Strategy Papers and Country Profiles
- the use of human rights impact statements
- a common understanding of human rights language between DFAT and AusAID
- flexibility in applying human rights guidelines to take account of country specific issues
- transparency of process to avoid arbitrariness in decisions affecting the delivery of aid
- greater structured coordination between NGOs and AusAID to guarantee attention is given to human rights issues

The workshop recommended a plan of action which promised discussion of future action with the Government, the development of case studies, the further interpretation of the six principles, the drafting of a policy paper on human rights and the incorporation of this in the AusAID Programme Guide.

¹¹ See Appendix

The potential benefit from the recommendations and plan of action have been frittered away. There has been no follow up to the workshop despite repeated efforts to revive the dialogue. This is not to say that there has been little or no contact between AusAID staff and NGOs – discussions between development NGOs and programme staff are frequent. However, they have ignored the recommendations of the workshop, there has been no talk of exploring ideas further and the drafts of the AusAID Programme Guide that we have sighted – never circulated to the participants of the workshop – have ignored almost all the recommendations and hardly refer to human rights.

This was an initiative of people within AusAID. While it is disheartening that management has shown so little interest in acting on the recommendations and building on a potentially fruitful exercise, it is not too late continue the process started two years ago.

Recommendations

- 11.1 AusAID should reconvene a workshop with human rights and development NGOs to explore further the implications for programmes of the six principles outlined in the Minister's Eighth Annual Ministerial Statement to Parliament on the aid programme.
- 11.2 The first of these workshops should have on its agenda the incorporation of human rights guidelines in the AusAID Programme Guide.
- 11.3 A system of regular consultations between human rights NGOs, development NGOs and AusAID programme staff should be established to discuss human rights issues.
- 11.4 The Australian Government should draft a comprehensive policy on human rights and development cooperation and make it widely available to the community in Australia and to governments and civil society in aid-recipient countries in the relevant language(s).

12. Non-government development assistance

AusAID uses an extensive network of development professionals outside its own organization. Like many other donors it has identified NGOs as a major conduit to communities in developing countries and values the experience and the contribution these can make to Australia's aid programme. In a sense, development NGOs are ambassadors for Australia. Again like many other donors, AusAID draws on the expertise of outside commercial consultants that it contracts to develop and implement projects. Because of their prominent roles these development actors should reflect the policies and practices of the Australian aid programme and in line with the linkage between human rights and aid, should also be promoting human rights and be careful to do so even in their own work environment.

Recommendation

- 12.1 AusAID should ensure that the private consulting firms through which Australian aid is channelled are committed to the realization of human rights and that these firms invest adequate resources to ensure that their staff are provided with training on the relationship between human rights and aid.
- 12.2 AusAID should ensure that the Minister's emphasis on human rights and aid is reflected in the NGO activities it funds – in particular it should ensure that NGOs it funds are explicit in setting human rights objectives in their delivery of

services and in their project work. This should be reflected in AusAID's contracting, accountability and quality management procedures.

- 12.2 Consulting firms and NGOs should also be expected to implement and report on the degree and manner of participation in accordance with AusAID's own guidelines and the demands of the human rights framework.

Summary of the recommendations

- All country strategy papers and project design documents should incorporate explicit human rights objectives elaborating the level of accountability expected of donor partners. [2.1]
- Programmes supporting decentralization should be explicit about the obligations of local authorities to respect, protect and fulfil human rights. [2.2]
- Support for microcredit projects should require provision for an analysis of those who are excluded from participation in the microcredit scheme and consideration of how the rights of these are to be addressed. The obligations of the local authorities to respect, protect and fulfil rights should be built in to the dialogue with the beneficiaries. [2.3]
- Human rights training of programme staff should include familiarization with the practical steps required to realize economic, social and cultural rights as well as civil and political rights. [3.1]
- Project design documents should identify and be explicit about the specific human rights objectives of each project. [3.2]
- AusAID documentation such as guidelines, promotional material and memorandums of understanding should refer broadly to human rights objectives within each country programme. [3.3]
- Reference material on the link between aid and human rights should be made readily accessible to AusAID staff and its existence brought to their attention. [3.4]
- DFAT representatives at the UN should be requested to convey to AusAID desk officers relevant country and thematic information from the ILO, the UN Treaty Monitoring Bodies and the Independent Experts. [3.5]
- AusAID should facilitate Australian and recipient country NGO and CSO participation in the analyses leading to the drafting of Country Strategy Papers. [4.1]
- Guidance on the priorities for the country strategy should be sought from NGOs and CSOs as well as recipient government. [4.2]
- Project design documents should be shared as a matter of course with the communities affected by their outcome in an accessible format. [4.3]
- The Australian Government should advocate for the participation of CSOs in the World Bank's forum deciding the direction and quantum of aid to each country. [4.4]
- The Australian Government should encourage the World Bank and other multilateral banks to allow sufficient time for meaningful participation in the formulation of Poverty Reduction Strategy Papers. [4.5]
- AusAID should work closely with other donors when conducting country analyses and share its insights on human rights assessments with other donors. [5.1]
- Country analyses should be shared with civil society organizations in donor and, especially recipient countries. [5.2]

- AusAID should host donor conferences that include participation of civil society organizations in countries to which Australia is a major donor. [5.3]
- AusAID and DFAT should convene regular inter-departmental committees with the participation of other relevant departments to discuss the human rights objectives in country strategies and how representatives of each department can play a symbiotic role in the promotion of human rights. [5.4]
- The Australian Government should provide a sizeable grant to UNDP in support of the Hurist project. [6.1]
- AusAID should offer technical and other assistance to partner governments to enable them to fulfill their reporting requirements to the UN's human rights Treaty Monitoring bodies. [6.2]
- DFAT representatives at OHCHR should offer to make available to the Treaty Monitoring bodies data and information from AusAID when the Committees consider initial and periodic reports from countries in receipt of Australian aid. [6.3]
- Australia should sponsor a workshop at the OECD focusing on the link between poverty reduction strategies and the human rights approach to development cooperation, and enlist support for this from like-minded donors. [7.1]
- AusAID representative at the OECD should be directed to advocate the establishment of a working group on poverty eradication and human rights. [7.2]
- The Australian Government should initiate a dialogue with the Bank on how the latter can incorporate human rights in its Comprehensive Development Framework. [8.1]
- The Australian Government through AusAID and with the assistance of economists and international legal experts should explore means by which the Poverty Reduction Strategies of the Bank can integrate economic and social rights in analysis and dialogue with indebted countries. [8.2]
- The Australian Government through its Executive Director at the Asian Development Bank should explore the integration of human rights in the ADB's strategies. [8.3]
- AusAID should facilitate an international discussion on the integration of long-term human rights planning in humanitarian emergencies. [9.1]
- The terms of reference of the institution contracted to conduct human rights training in AusAID should include devising ongoing training programmes that will be integrated in the career development of AusAID staff. [10.1]
- The contractor should be responsible for incorporating in human rights training the latest developments in donor human rights policy and practice. [10.2]
- AusAID should reconvene a workshop with human rights and development NGOs to explore further the implications for programmes of the six principles outlined in the Minister's Eighth Annual Ministerial Statement to Parliament on the aid programme. [11.1]
- The first of these workshops should have on its agenda the incorporation of human rights guidelines in the AusAID Programme Guide. [11.2]

- A system of regular consultations between human rights NGOs, development NGOs and AusAID programme staff should be established to discuss human rights issues. [11.3]
- The Australian Government should draft a comprehensive policy on human rights and development cooperation and make it widely available to the community in Australia and to governments and civil society in aid-recipient countries in the relevant language(s). [11.4]
- AusAID should ensure that the private consulting firms through which Australian aid is channelled are committed to the realization of human rights and that these firms invest adequate resources to ensure that their staff are provided with training on the relationship between human rights and aid. [12.1]
- AusAID should ensure that the Minister's emphasis on human rights and aid is reflected in the NGO activities it funds – in particular it should ensure that NGOs it funds are explicit in setting human rights objectives in their delivery of services and in their project work. This should be reflected in AusAID's contracting, accountability and quality management procedures. [12.2]
- Consulting firms and NGOs should also be expected to implement and report on the degree and manner of participation in accordance with AusAID's own guidelines and the demands of the human rights framework. [12.3]

WORKING TOGETHER

THE HUMAN RIGHTS BASED APPROACH TO DEVELOPMENT COOPERATION STOCKHOLM WORKSHOP 16-19 OCTOBER 2000

Part 1 REPORT OF THE NGO WORKSHOP 16-17 OCTOBER

EXECUTIVE SUMMARY OF THE NGO WORKSHOP

The workshop rationale was based on the assumption that the human rights approach brings something new and different to existing development practice, that – in the words of many – it ‘adds value’ to existing approaches, and that there is growing programmatic experience in applying the approach, experience that could be usefully drawn on to establish some preliminary guidelines for donor agencies and to identify areas which need further elaboration and further experimentation.

NGOs welcomed the opportunity to participate in such a clearly focused discussion on aid policy and practice. Much of the focus of the workshop was on official donor agency policy and practice, although there was recognition that the human rights approach also has implications for NGO practice. While the range of NGO experiences and perspectives represented was diverse, there was a remarkable degree of unity on the value of the human rights approach and clarity on the changes in development practice it calls for from donors.

One of the major ‘added values’ of the human rights approach was identified as accountability for the realization of human rights. This includes the accountability, not only of recipient governments, but also that of bilateral and multilateral donors, private contractors and other development actors, including NGOs. One way of ensuring accountability is the establishment of complaints mechanisms such as aid and humanitarian ombudsmen. NGOs expressed concern that accountability in current policy and practice is often equated with and limited to issues of financial and other management by the recipient.

Participants gave considerable attention to the relationship between poverty and human rights. There was agreement that looking at poverty through the human rights lens – as a denial of human rights – enables a richer understanding of the different dimensions of poverty and encourages a more comprehensive policy response to the structural causes of poverty.

Another added value was the common framework for assessing and guiding sustainable development provided by the established and accepted human rights standards. Some concern was expressed at the variety of interpretations of the human rights approach in development circles. While it was important to build on good practice and encourage initiatives on the ground, the need for clarity on the approach and leadership from senior levels was stressed. The value of using the human rights framework was seen in the potential for consistency and greater coordination between development actors but this depends, precisely, on clarity and common understanding of the approach.

For NGOs working on the ground in often difficult conditions there was a sense that the human rights approach could help provide a wider legitimacy to human rights and for those working and advocating for their realization. A policy dialogue around the need to realize economic, social and cultural rights can provide an entry point to discussing the sometimes more sensitive issues of civil and political rights. The emphasis of the human rights approach on participation as a human rights issue is seen by NGOs as another value of adopting the human rights approach.

For many NGOs the workshop was their first opportunity to focus on donor policy and practice and to engage positively on these issues with donor agencies. So one of their strongest calls was for continuing participation and partnership with donors as they seek to implement the approach. Inherent in efforts to ensure meaningful participation was the active provision of information. The participants stressed that to participate in applying the human rights approach they needed adequate documentation and sufficient time to be able to examine relevant materials and that this should be an important responsibility of donors.

In particular, NGO participants felt that there was insufficient meaningful participation in programme design and the drafting of country strategies because of a lack of transparency of donor policy and practice. This was seen as especially the case with relation to multilateral agencies and presented obstacles to meaningful participation in multilateral forums.

Participants agreed that a human rights analysis was one essential component of the human rights based approach and that this should be based on the legal framework as codified in the international human rights instruments and principles. NGOs recommended that the General Comments and Concluding Observations of the Treaty Bodies and the reports of the UN Special Rapporteurs should be essential reference materials for any human rights analysis. They also stressed the need for cultural sensitivity and reference to a country's own human rights commitments in order to avoid perceptions of an imposition of foreign values.

It was seen to be important to build internal capacity on the human rights approach in donor agencies – whether government or international NGO – and this pointed to the need for the development of training programmes in each organization.

There was concern expressed that the poverty focus of agencies and poverty reduction strategies were not linked to human rights. For example, the Poverty Reduction Strategy Papers (PRSP) of the World Bank did not take account of the human rights based approach and bilateral donor policy commitments to human rights were not reflected in the PRSP framework or process. The nature and extent of participation in the formulation of PRSPs was also called into question. Similarly, the lack of any formal process for the integration of human rights in the OECD's Development Assistance Committee's work was seen as a problem that had to be addressed as a matter of urgency.

Related to this was the need for greater coordination among donors, with civil society organizations, across ministries in donor countries and, importantly, with relation to the integration of human rights in the work of the international financial institutions and the emerging trade and investment regulatory bodies.

NGOs acknowledged that a development policy dialogue between partners based on shared commitments to human rights could be a highly sensitive issue and difficult for both donor and recipient government for a range of reasons. Some practical experiences on successful dialogues do exist – UNICEF's and Save the Children's programming on the rights of the child, CARE's advocacy in Kenya, the HURIST project, INFID's dialogue with the Indonesian government – and these should be drawn upon. NGOs also cited the experience of diplomacy and advocacy on civil and political rights – that persistence and consistency on the

part of NGOs and governments had ensured that human rights was a legitimate focus for discussion.

If there was one common regret among workshop participants it was that there were not yet sufficient practical experiences to draw lessons from and that key practical questions of implementation remain. NGO participants stressed the importance of documenting experiences of applying a human rights approach. Again, successful examples do exist but they have not been recorded. Other instances that in fact apply the human rights approach are not being identified as such.

There was broad agreement that ethical and legal considerations had to be accompanied by demonstrable practical outcomes if sceptical colleagues were to be convinced of the value of the human rights approach. Consequently there was a strong view that the Stockholm workshop should be seen as the first of an ongoing series of workshops and exchanges among like-minded government and non-government organizations. To this end participants identified complaints mechanisms to hold donor and recipient governments accountable, the links between human rights and poverty, and the responsibility of multilateral banks with relation to human rights as some of the issues that should be discussed at greater length in forthcoming workshops.

NGOs agreed that the workshop had been extremely useful as a first step in the promotion of the human rights approach to development cooperation and in clarifying the approach. It was hoped that this workshop was merely the start of a learning process to address common challenges and to seek common solutions.

Part 2
REPORT OF THE DONOR WORKSHOP
17-19 OCTOBER

EXECUTIVE SUMMARY OF DONOR WORKSHOP

After close on ten years of discussion on the relationship between human rights and development cooperation, there is today a widespread acceptance of the link between the two. This link is reflected in the policies of many donors.

Not unexpectedly, different agencies have placed different emphases on various aspects of this relationship with some focusing on distinct projects and programmes on civil and political rights and others exploring the potential of a human rights approach to enhance the effectiveness and sustainability of their projects.

With the latter approach in mind the Swedish Ministry of Foreign Affairs, Sida and the Swedish NGO Foundation for Human Rights in association with the Human Rights Council of Australia invited donor organization practitioners to bring their own programmatic experiences to the workshop with the aim of charting some future directions and identifying possibilities for future collaboration.

A brief review by participants of existing agency approaches and experiences highlighted the wide range of interpretation and progress made in applying the human rights approach. In doing so the review pinpointed the need for clarity and common understanding on what is meant by the human rights approach. This range of experiences enhanced the subsequent discussion of very practical questions.

These questions focused on common issues that have arisen in many agencies:

- The added value of the human rights approach.
- The practicalities of conducting a human rights analysis.
- How to create change and build support for the human rights approach within agencies.
- The need for cooperation and collaboration among agencies and other development actors.
- The relationship between the poverty approach and the human rights approach.

Presentation of a number of actual case studies and examples grounded the workshop discussion and demonstrated the value of shared experiences.

It was striking that, while there was broad acceptance of the legal, moral and ethical imperative of the human rights approach, there was also a common feeling that the 'added value' of the approach had to be identified and communicated to professional colleagues since scepticism about the approach remains widespread.

Participants agreed that the human rights approach brought the following to good development practice:

- a common and accepted framework enshrined in international law;
- a common basis by which to hold governments, their agents and the non-governmental community accountable;

- improved and standardized methods of analysis which expose areas of greatest need;
- benchmarks for measuring more accurately the outcomes of development assistance; and
- a process which increases sustainability through the meaningful participation of the stakeholders.

Workshop participants agreed that implementation of the human rights approach in country or sectoral programmes called for a human rights situational analysis. This had been stressed in the NGO part of the workshop and was reinforced by donor participants. Such an analysis requires an understanding of specific human rights. The analysis needs to take account of the degree to which each right is ‘respected’, ‘protected’ and ‘fulfilled’. It is an understanding of the nature of the government obligations to respect, protect and fulfill human rights that enables a sufficiently detailed analysis of priorities and where resources, advocacy and action should be targeted. The UN Manual on Human Rights Reporting and the General Comments of the UN Treaty Bodies are useful reference materials on the meaning and core content of each right. Unfortunately, the UN Manual on Human Rights Reporting remains underused as a practical guide to establishing objectives and appropriate indicators of progress.

In the process of conducting a human rights analysis, the Concluding Observations of the UN Treaty Bodies and governments’ periodic reports to them should be referred to by donors. The UN human rights monitoring system, including the ILO, already has and continues to produce a wealth of general human rights and country-specific information relevant to development agencies. However, the UN could do more to disseminate this information and agencies could do more to access and request it. The fact that they rarely do so is at least partly due to staff being unaware of the potential or relevance of these useful tools to their own programming.

The workshop heard of two examples of agencies conducting a human rights analysis. One was the Zimbabwe country analysis by the embassy of Sweden – a model of its kind – which looks at each right in the International Bill of Rights in turn, refers to the relevant comments from the Treaty Monitoring bodies and situates it within the context of poverty and partnership. A similar approach to situational analysis is found in the Nepal UN Development Assistance Framework (UNDAF). Participants stressed that the analysis had to focus equally on economic, social and cultural rights as on civil and political rights.

Experience of translating human rights analyses into goals and objectives and to identify strategies to implement them is not extensive. The case of Zimbabwe exposed the difficulties facing agencies drafting country strategies based on a human rights analysis in situations of crisis. By contrast the Nepal UNDAF is an example of an attempt to identify broad human rights objectives and devise strategies to meet the objectives in a stable situation that is positive to human rights. Individual UN agencies in Nepal are now in the process of translating these broad objectives into more specific programmatic goals in collaboration with the Nepalese authorities and civil society.

Participants pointed to the need for structured training programmes for staff at all levels. In order to apply the approach there is a need for awareness raising among policy makers and programmers about human rights and what the human rights approach means. However, participants noted that human rights training should not be separated from regular training for fear of compartmentalization. The experiences of NGOs such as CARE International and Save the Children that had done extensive work in this field should be tapped by donors.

Donor workshop participants agreed with their NGO colleagues that senior management needs to show leadership in promoting the human rights approach within agencies. This must be tempered by patience and understanding since imposition of the approach on sceptical professionals can increase rather than overcome internal opposition. It is important to stress the consistency of the human rights approach with existing best practice. Using the existing

experiences of field workers who are sometimes actually applying the approach in all but name at the micro level is a necessary factor in convincing colleagues of the value of the approach at the macro level.

The issue of coordination and collaboration among donors came up repeatedly in the workshop. The different programming cycles of bilateral agencies, the UN, the World Bank and of recipient governments was illustrative. The example presented to the participants of the UNDP Local Governance project in South Africa exemplified the problem of recipients playing donors off against each other when these do not coordinate their assistance. This highlighted the need for increased consistency in applying the human rights approach among like-minded donors. Moves towards greater coordination and cooperation between agencies are increasing and this is reflected in emerging strategies such as the UNDAFs and the Comprehensive Development Frameworks (CDF). These need to be grounded in common standards and one of the 'added values' associated with the human rights approach is that it is based on an accepted international framework which brings coherence into development work.

Yet the human rights approach has still to find its way into the thinking and practices of two of the most influential development institutions – the World Bank and the Development Assistance Committee of the OECD (DAC). Both need to be brought into the dialogue. Donors with human rights policies have a key role in injecting the human rights approach into the thinking of these institutions and in supporting its acceptance. The example of the Poverty Reduction Strategy Papers (PRSP) was raised as a challenge to bilateral donors. These do not take account of the human rights based approach and bilateral donor policy commitments to human rights have not been reflected in the PRSP framework or process. Similarly, discussion of human rights in general and of economic, social and cultural rights in particular has not featured in the DAC discourse on poverty.

The value of inter-agency collaboration and cooperation in the process of applying human rights policy to practice was emphasized by participants. It was clear that agencies face many of the same issues and that some forum for sharing the lessons should be established, possibly through the DAC. There were calls for the creation of opportunities for colleagues to question and explore the approach with each other.

Participants referred repeatedly to the poverty reduction approach which in some quarters is seen as an alternative to the human rights approach. There was agreement that looking at poverty through the human rights lens – as a denial of human rights – enables a richer understanding of the different dimensions of poverty and encourages a more comprehensive policy response to the structural causes of poverty. Both official donors and NGOs were concerned that the poverty focus of agencies and poverty reduction strategies were not linked to an understanding or consideration of human rights. Thus, donors should collaborate in drawing the link between human rights and poverty in discussions with the Bank which, is after all, under the directorship of individual governments.

The point was stressed repeatedly that the promotion of human rights is not an arcane science but that it is based on some basic principles that should guide a human rights approach to development cooperation. There is no mystical value attached to these principles but the moral and legal dimension of human rights, coupled with the genuine participation of people, which is their right, will underpin the sustainability of development efforts aimed at eradicating poverty.

Finally, participants agreed that the critical lack of empirical data on the application of the human rights approach can only be addressed through the initiative and commitment of donors to implement their own policies. Further workshops should be organized that will for example tap the expertise of economists within donor agencies or explore the implementation

of specific human rights such as the right to health or education in a more focused way. Participants suggested that the report of the workshop be made widely available.

These initiatives can and should build on the momentum for the promotion of the human rights based approach to development cooperation worldwide.