

# **THE RIGHT SPACE:**

Towards an effective dialogue on human rights  
between non-governmental organisations  
and the government in Australia

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**Plan**



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- *The individuals who were interviewed were approached because of their individual expertise, and were not asked to reflect the positions of their organisations, but to reflect on personal experience.*
- *The conclusions in this paper are the author's own and should not be presented as being endorsed by all those above or Asialink Leaders Program, unless credited as such. Some of the input received was useful precisely because it was through disagreement!*

**“The human rights community are doing a good job, but are being too quiet.”**

**The Rt Honourable Malcolm Fraser,  
Private interview, Melbourne, 31/07/09**

**“Trying to carve out space to push the human rights agenda forward is ill-defined...  
Leadership is moving into spaces that are ill-defined and giving them shape, seeing it as an  
opportunity not a barrier.”**

**Ian Wishart, Plan International Australia CEO  
Private interview, Melbourne, 23/06/09**

# 1. Introduction

It would be fair to say that the Australian aid and development sector is in a new and interesting phase. There is an increasing confidence in using a human rights framework for development and a desire to clarify our approaches to increase effectiveness. Part of this is increasing the dialogue and advocacy with the government on human rights and how they relate to overall development outcomes. The way the sector frames development is now more than ever linked to access to human rights and the factors that prevent this access. So far however, this engagement on human rights by development agencies has been narrowly focused on specific issues, has taken place in a crowded and confusing space and is also not always successful.

In order to engage in a more meaningful way and move the sector beyond narrow mandates that become owned by specific agencies, and into a space that targets the interconnectedness of human rights, development and political leadership, we need to establish a common view as to what is required within the sector to increase the collective effectiveness of our work.

This paper is an initial attempt to articulate the broad-based thinking around human rights and what it could mean for the Australian sector to apply this in a united way to our efforts to engage with the Australian Government on development policy.

## Project scope

This paper aims to outline successful strategies that have been used for human rights-related policy engagement as well as to propose a vision for improved effectiveness. Ideally it will also contribute to sector-wide learning and will be disseminated through working groups and networks to facilitate this.

This project focuses on engagement between the Australian Government and Australian-based Non-Government Organisations (NGOs) on human rights and development outcomes. It will not deal with human rights debates focused on Australia's domestic record. Although these do have an impact and are important, they are not generally the focus of engagement between NGOs who are more focused on the international aid program.

The paper predominantly draws from first-hand information from a series of semi-structured interviews with people involved in human rights dialogue in Australia. It also highlights specific case studies which demonstrate successes and failures of particular efforts to influence the Australian Government. In order to place our current efforts in context, it also includes a brief analysis of the impact history has had on the sector.

## Project objectives

- 1 To ascertain the strategies employed by NGOs to discuss rights with the Australian Government
- 2 To establish key factors of success
- 3 To outline the space within the sector and clarify the parameters of human rights dialogue
- 4 To contribute to the establishment of a broader understanding of effective human rights dialogue

## Methods

In the semi-structured interviews a series of common questions was asked but with enough flexibility for spontaneous follow-up questions and tangents to be explored. The decision to use a semi-structured interview format was made for a number of reasons; primarily because the very choice of questions will in some cases sway the direction of the conversation. Because I am involved in rights dialogue from the perspective of an Australian NGO it was important to keep the interviews as flexible as possible to absorb the possibility that different perspectives would lead to new questions. While this has allowed for richness in responses it also poses problems for making generalisations. This is in some way counteracted by including set questions which were asked in all interviews.

The analysis of the material was done through finding themes and repeated perspectives that linked the interviews and painted a common understanding or opinion about a given issue. However, there are also elements reflected that were not necessarily brought up by all interviewees but I deemed important to note and therefore have included. The decision regarding the importance was made when a point either provided an interesting contrast to others, was a different angle to a perspective often repeated in other interviews or reflected a lesson learned that could be applied to another issue.

The interviewees were chosen through a combination of professional contacts and through referrals by previously interviewed individuals. They represent a cross section of development professionals engaged in human rights advocacy within Australia as well as a small number of government representatives. They were not randomly selected, and are therefore not statistically representative of the whole sector, but provide a wide-range of valuable views with which to start.

Most of the interviews were around 40–60 minutes, with the briefest being 30 minutes. One respondent emailed his answers to the questions. Given the volume of information gathered through around 10 hours of interviews, decisions had to be made about what was used in the paper and what was not. The first step to this was re-writing the notes made during the interviews with the in-

formation grouped around themes. Anything that did not fit into a theme was included in a separate section.

## 2. History matters

Attempts to improve current practices must consider where the sector is now and what has contributed to its current outlook. History is not only important in terms of international relationships, but will also flavour attitudes towards national policy engagement, human rights dialogue and development practice as a whole. In part, consideration of the history of the dialogue on human rights between the Australian Government and development agencies assists us in clarifying the parameters of the dialogue itself; this is the third objective of this project. Demonstrating why and how these agencies have begun to engage in this dialogue will assist us in establishing how to engage more effectively.

### 2.1 The emergence of rights-based approaches and their impact on advocacy in Australia

Many Australian NGOs in the aid and development sector are currently consolidating their approach to development using a human rights framework. While human rights have long been referenced within development circles, this new discussion is gauging the extent to which Australian development agencies use a rights-based approach.

The international approach to development is now focused on access to human rights, rather than simply to reducing poverty. It is a model that targets the underlying structural issues and causes of poverty, rather than the more evident results of poverty. Its overarching premise is that without equal access to human rights for all people, we will not end poverty. This move requires development agencies to look at poverty in terms of social justice and in terms of economic justice, taking it from the arena of charity and need and placing squarely within the domain of rights activism. In so doing, two previously separate domains converged.

Post World War II, development as a sector was becoming an area for international cooperation but was still seen as the domain of economists. At this time human rights instruments were being developed and human rights as a field was being expanded, but was considered the domain of lawyers and activists<sup>1</sup>. The two fields were evolving along different lines and recommending different practices and justifications for action.

“They promoted divergent strategies of analysis and action – economic and social progress on the one hand, political pressure, law reform and ethical questioning on the other.”<sup>2</sup>

Newly independent nations entering the UN had experienced the convergence of economic and social rights in their struggles for independence. Seeing their efforts to gain economic, social and political rights for their people, began moves to unite the two fields of development and human rights.<sup>3</sup> In 1986 these actions culminated in the UN Declaration on the Right to Development. This controversial<sup>4</sup> but still influential<sup>5</sup> declaration reinforced the burgeoning links between the two fields and ensured development was seen as a global responsibility.

The Declaration also reinforced the notion that human rights are interdependent and mutually reinforcing, with no hierarchy. This effectively raised the profile of economic rights which had been sidelined previously and also clearly links human rights to development. However, since the 1993 Vienna Conference on Human Rights – which again reinforced the nature of rights as indivisible, interdependent and non-hierarchical – development agencies have begun to employ a rights-based approach to development.<sup>6</sup>

The impetus for this move came from countries usually relegated to the category of ‘recipient’, not ‘catalyst’:

“We owe this thinking on the relationship between development and human rights largely to countries of the South. When the newly independent countries of the 1960s and 1970s joined the United Nations, they took the promise of universal human rights principles and insisted that they were applied to the conditions of their peoples.”<sup>7</sup>

These international developments have influenced Australia. The ACFID vision statement notes the intrinsic relationship between development and human rights and a recent ACFID publication, *Rights in Sight: Australian aid and development NGOs on human rights*, notes that the last four decades of championing rights in Australia has been successful but inconsistent;

“Amongst ACFID’s own members there is a push for greater consensus on what a human rights-based approach to development might entail ... a renewed push from Australian aid

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1 Nyamu-Musembi, Cornwall, 2004:8  
2 Human Development Report, 2000:2  
3 Nyamu-Musembi, Cornwall 2004:7  
4 Ibid 2004:9

5 Robinson, 2001  
6 Nyamu-Musembi, Cornwall 2004:9  
7 Robinson, 2001

“Amongst ACFID’s own members there is a push for greater consensus on what a human rights-based approach to development might entail... a renewed push from Australian aid and development NGOs has placed human rights back on the development agenda.”<sup>8</sup>

and development NGOs has placed human rights back on the development agenda.”<sup>8</sup>

Part of that push requires clarification of the role of advocacy, or human rights dialogue, with the government. The *Rights in Sight* report notes that many NGOs see a human rights-based approach as opening space for increased advocacy, and this was enhanced by referring to precedent around human rights, which has an internationally agreed language.<sup>9</sup>

If this is the case, then as we solidify our understanding and implementation of rights-based approaches then we must also work to clarify our thinking, practices and articulation of the role influence, dialogue and lobbying on human rights have to play in both our approach to development as well as our results.

## 2.2 Human rights dialogue within the Australian sector: why it lacks clarity

“It is deeply regrettable that after years of effort to promote human rights, there is not one region of our world that is free from serious human rights violations. In the spirit of constructive dialogue, and a desire to help ordinary people, Australia will continue to speak out against the treatment of those who do not enjoy the protection of robust democracy, of good governance, of a free press, of strong civil society, and of the basic protections laid out in the human rights covenants.”

*Statement by Senator John Tierney, to the Third Committee, 1 November 2004*<sup>10</sup>

“Labor supports both the promotion of human rights internationally and the development of international standards and mechanisms for the protection and enforcement of these rights. Labor will adhere to Australia’s international human rights obligations and will seek to have them incorporated into the domestic law of Australia and taken into account in administrative decision making.”

*Australian Labour Party National Platform, 2007*<sup>11</sup>

It is clear that there is no consistent human rights culture in Australian political history; however it is interesting to note that human

rights are a shared feature in the rhetoric for both parties from time to time. There are instances during which human rights seemed to be a reference point for action by a given politician, but these examples were perhaps more a result of that politician than an overarching mandate from the government.

Sadly the recent period of Australia’s history under the Howard government was characterised by one interviewee as:

“Australia lost our way, with woeful lack of support for the UN, for refugee rights and for general multilateral engagement.”<sup>12</sup>

Examples in which Australia did speak out or take positive action, took place in an otherwise hostile environment for rights activists. This hostile environment is perhaps best illustrated by the use of gagging clauses which severely limited the voice of NGOs on a myriad of issues Australia was grappling with. In fact:

“... some commentators suggest that not only did the Howard government reject NGO input, it actually employed mechanisms to silence dissenting, critical voices.”<sup>13</sup>

The result was dialogue that was restricted to poverty- and needs-based orientations, which were seen as less contentious because of the absence of the legal state responsibility, which is an inherent part of human rights.

In 2008 the Rudd government ceased the practice of inserting gagging clauses into NGO funding agreements and in so doing has opened the relationship to include more engagement, dialogue and criticism. It has also made definite signals of a new orientation by re-engaging with multilateral systems:

“... the Australian Government will work to ensure that the United Nations and its agencies fulfil their potential as agents for economic and social reform, for peace and as a protector of human rights.”<sup>14</sup>

The government has also received credit because of efforts to prioritise some rights issues and acknowledge difficult responsibilities – the apology to the Indigenous population and the signing of The Kyoto Agreement are two such examples. However, there are still some major issues facing the Rudd

8 ACFID, ‘Rights in Sight: Australian Aid and Development NGOs on human rights.’ July 2009:4

9 Ibid 2009:15

10 Accessed at [http://www.australiaun.org/unny/soc\\_011104.html](http://www.australiaun.org/unny/soc_011104.html) on 14/07/09

11 Accessed at [http://www.alp.org.au/platform/chapter\\_13.php](http://www.alp.org.au/platform/chapter_13.php) on 25/05/09

12 Wishart, Ian. May 2009, interview

13 Edgar, Gemma. ‘NGO advocacy way of future’, The Canberra Times, 4 September, 2008

14 The Hon Stephen Smith, Minister for Foreign Affairs, 19 August 2008. Accessed at [http://www.foreignminister.gov.au/speeches/2008/080819\\_si.html](http://www.foreignminister.gov.au/speeches/2008/080819_si.html) on 25/05/09

government and in demonstrating that even this greater engagement in rights is not consistent; the treatment of asylum seekers one notable example. The recent openness to dialogue has meant the international development sector (as well as domestically focused NGOs) can engage in new ways to enliven the rights discourse and push this and future governments towards a more stable orientation to human rights. This is increasingly important given the gaps to be mended:

“Australia has a patchwork quilt of protection for human rights. We have made commitments to a range of obligations under international human rights law, but these obligations are enforceable in Australia only if implemented in domestic legislation. Although there are numerous mechanisms for holding Australia accountable at the international level, they are not legally binding and their recommendations can be, and have been, ignored by Australian governments.”<sup>15</sup>

‘Patchwork’ does imply that some areas are covered, and this is true of the human rights dialogue in Australia too. Both sides of the political spectrum have set up mechanisms that contribute to a multi-dimensional space for human rights dialogue.<sup>16</sup> Examples of this include the human rights dialogue between NGOs and DFAT, consultative committees and invitations for submissions. However, there are still areas that can be improved.

Part of the role of development NGOs that use a rights-based approach is to advocate for the mending of specific gaps. This project argues it is our role to advocate that the Australian aid program should be an integral part in forming a strong human rights culture across Australian society. Only when this culture exists will the quilt be strong enough to support a robust development program.

It is therefore essential that our sector does not become complacent because of recent progress, but works to find new and stronger ways to repair this quilt, so that it remains intact through political challenges.

<sup>15</sup> Human rights consultation report, 2009:349

<sup>16</sup> Tim McCormack, in a private interview, identified that the ideal space for human rights dialogue is ‘multi-dimensional’ and therefore uses more than one method.

# 3. The vision for human rights and the Australian aid program

**“[Responsible global citizenship is] when a State takes its international legal responsibilities seriously. When it has signed onto international instruments, it makes sure they are implemented in an effective way, including domestically. Decisions should be on the basis of principle.”<sup>17</sup>**

**“It means being even handed; treating like situations alike and if Australia acts differently this should be articulated and transparent.”<sup>18</sup>**

Deliberation over our methods must first focus on an end goal in order to give clear parameters to the discussion. As a sector we need to be clear about what we are trying to achieve in order to work out how best to achieve it. This clarification also contributes to the realisation of objective three of this paper, which is to clarify the parameters within which human rights dialogue takes place between the government and development NGOs.

In general, participants saw a clear and primary role for NGOs to engage with the government to support, assist and persuade it towards meaningful integration of appropriate human rights instruments, as well as the promotion of the instruments and human rights principles in the region, in both the aid program as well as more broadly in government decision making.

The notion of responsible global citizenship, a term used by the government, was discussed. The discussion was both in terms of the State’s primary role as well as the potential and existing role of NGOs. Participants explained that acting in a responsible way not only means ensuring Australia’s human rights record is improving, but also that Australia should use its position and its wealth to positively influence the human rights record regionally. A key part to this as identified by those I spoke to was to engage the Australian public in human rights, thereby creating a more ‘rights literate’ population, and increase electoral pressure on the government – the engagement by the public becoming both a means and an end in human rights dialogue in Australia.

The details of the participants’ thoughts and suggestions have been broken down into themes, and can be viewed as articulating a broad vision for human rights and development in the Australian aid sector and therefore an indication of our common end goal. It should be made clear that the effort to establish a broad goal in no way advocates for the loss of diversity in the ways we chose to engage on human rights issues, or of the issues themselves, but suggests instead that we need to be smarter in the way we link our work so as to ensure we are complementing each others’ efforts in order to have a stronger overall impact.

## 3.1 What we want from the Australian Government

Each interviewee was asked to illustrate in general terms what they considered critical for the Australian Government to be a responsible global citizen. The responses have been broadly summarised in the following two sections.

### Principle-based decision making

This was highlighted by several participants as a necessary component of responsible global citizenship. Tim McCormack outlined it as:

“[Responsible global citizenship is] when a State takes its international legal responsibilities seriously. When it has signed onto international instruments, it makes sure they are implemented in an effective way, including domestically. Decisions should be on the basis of principle.”<sup>17</sup>

Simply put, it is when a government uses the same principles found in human rights instruments to make decisions on all issues. This would eliminate the inconsistent record that is determined by political agendas and would enable decision makers to deal with all countries evenly, based not on strategic interests but on agreed human rights principles. Decision making and declared positions would be more transparent and also more defensible when grounded in internationally agreed to principles, and not swayed by other agendas. ACFID’s Human Rights Advisor, Sarah Winter, described it as:

“[Responsible global citizenship] is essentially about official government policy and practice, as opposed to individual statespersons making isolated speeches. It means being even handed; treating like situations alike and if Australia acts differently this should be articulated and transparent.”<sup>18</sup>

A necessary component of this, and one mentioned by several participants, is to ensure human rights are familiar to all parts of the government. Training programs were one way that was suggested as a role for NGOs to take in order to ensure greater incorporation of human rights principles into government decision making. A whole of government approach to human rights means that:

“By virtue of Australia being a signatory to the UN Charter we agree to uphold human rights ... this must be meaningful across different arms of the government who must know which rights impact them and how they must respond.”<sup>19</sup>

<sup>17</sup> Tim McCormack, private interview, Melbourne, 20/08/09

<sup>18</sup> Sarah Winter, private interview, Melbourne, 11/08/09

For the aid program, principle-based would mean aligning the program to poverty reduction and human rights, rather than only national security.<sup>20</sup>

### **A government that actively promotes human rights**

Australia's role as an advocate for human rights was echoed time and again by participants. Although not exemplary, Australia has a good record on human rights and is seen to be on the right track despite some glaring backward steps. Due to this, and the fact that Australia is a wealthy country, it was seen by participants as having an important role in promoting human rights in the region and beyond. A crucial part of this is that it must be done with a level of humility and transparency – an acknowledgement that Australia could learn from others while at the same time encouraging a greater commitment to human rights;

“You need to be an independent judge of issues on their merits, without prejudice and without being fearful. Approach relations with others not with the notion that we are perfect or that the way we do things is better than their way.”<sup>21</sup>

With this sense of independence from others' agendas, humility and respect it was felt that Australia could be a gentle but powerful advocate for human rights. It was clear in the interviews that promoting human rights in the region was not about promoting an Australian perspective on human rights but rather about engagement. In other words, being a responsible global citizen requires Australia

“... to engage with the global community to advance the interests of all peoples, with particular regard for the most disadvantaged and least powerful global citizens. Contribute to the development and implementation of international frameworks and instruments that protect individual rights and national interests.”<sup>22</sup>

Australia has an inconsistent approach when it comes to the practical ratification of international instruments, so engagement with the international community was emphasised as essential for the promotion of human rights. Engagement implies a more even relationship in which influence is exerted in two directions. This would allow Australia to both influence and be called to account for its own record. Both would be of benefit for development in the region and beyond.

**“By virtue of Australia being a signatory to the UN Charter we agree to uphold human rights... this must be meaningful across different arms of the government who must know which rights impact them and how they must respond.”<sup>19</sup>**

19 Marc Purcell, private interview, Canberra, 10/07/09  
20 James Wicken, private interview, Melbourne, 4/08/09

21 Malcolm Fraser, private interview, Melbourne, 31/07/09  
22 Nigel Spence, via email, 27/07/09

**“... human rights can be protected and promoted effectively only if an understanding of, and commitment to, those rights are a part of everyday life for all members of the community and for government, the private sector and non-government organisations ...”<sup>23</sup>**

### 3.2 What we want for Australia

Interviewees identified that these aspects of responsible global citizenship would be supported by a human rights culture in Australia. Ideally this culture would be characterised by an Australian public that is knowledgeable about human rights issues at home and abroad, that expects the government to adhere to human rights principles, and to a certain extent is engaged in or supports work to further human rights.

This belief that there is a need for a stronger human rights culture is echoed in the process used to ascertain if Australia should have a Bill of Rights. During the widespread consultation it was found that many Australians saw a human rights culture as key:

“... human rights can be protected and promoted effectively only if an understanding of, and commitment to, those rights are a part of everyday life for all members of the community and for government, the private sector and non-government organisations ... A considerable number of the submissions the Committee received referred to the need for greater human rights education and for the development of a human rights culture in the community.”<sup>23</sup>

While this process focused on a domestic rights issue, the notion of a rights culture holds true for international development work as well. In order for the sector to achieve a greater impact there is a need to establish a rights culture within community, government and civil society. This will lead to more coherence in the sector itself and greater understanding within the community. Those two aspects combined will build pressure on the government to integrate rights into all decisions, including those related to the aid program.

This notion of a human rights culture has been called into question – is it of benefit to have a greater understanding of and engagement in human rights in the Australian public or will it just make human rights more contentious? Should the public be increasingly involved in human rights dialogue?

While the arguments of private, specialist-level dialogue being of more use to policy influence are valid, my belief and the opinions of most of those I interviewed are that the ideal space for human rights dialogue is a combination of public and private. For this to be the case, the public needs to be informed and engaged to varying degrees.

Public engagement was seen as an essential for our democracy to be transparent and accountable to human rights. Furthermore a wider knowledge of human rights would influence the public towards more rights-based voting which in turn influences the government through the polls. Specific examples of rights-based dialogue being progressed through public discourse include the suffragette movement and native land title movement in Australia and the Civil Rights Movement in the United States.

Many of these movements initially attempted private policy dialogue to secure the changes they were pursuing, but not until public pressure grew were changes made or redress agreed. Going public did not necessarily make the process any easier, as there was in many of these examples violent opposition, but the debates, focus and action certainly played a large role in the resulting successes.

These were issues that could be made relevant to the everyday lives of a broad range of people in the population. Obviously it is now impossible to know if an alternative private method could have been successful, but the public debate and controversy around these issues made inaccessible, and in some cases legally complicated arguments an everyday issue for the public.

Controversy can push people towards the kind of passion needed to make difficult decisions and instigate change. The essential caution in this tale however, is that we, as rights advocates must be strategic and informed in our decisions as to which of these two spheres – public or private – to use.

The following recommendations and case studies are intended to assist us to make more informed and strategic decisions about our dialogue and advocacy methods.

## 4. Strategies for success

Outlining the common vision for the way our sector, including the government, approaches human rights and development is an important first step, but how do we take the small steps towards the giant leap of principle-based decision making, government promotion of human rights and a human rights culture in Australia? The first and second objectives of this paper are to outline some of the key elements of success in human rights dialogue in order for lessons learned by individuals to be picked up by the sector more widely. The following is a reflection of participants' own successful efforts, lessons learned or advice based on identified gaps and the belief that NGOs can make a more strategic contribution to Australian responsible global citizenship.

### Audience-appropriate human rights discourse

There is a tendency within the sector to complicate human rights because of the many facets and aspects that professionals in the sector are required to deal with. However, this keeps human rights out of mainstream understanding and contributes to a lack of public engagement and a lack of ownership of rights by people outside the sector. It also has the potential to alienate governments who see the demands as impractical. Simplifying the notions and concepts behind human rights standards will enable them to be a part of dinner table discussions, informed debate in the media and political discourse.

“Scandinavians provide a good practice: they have a high regard for human rights and educate their populations on this ... Human rights can be used as a reference point or benchmark so your critique is not based on your beliefs but on internationally agreed standards. They are an independent reference point.”<sup>24</sup>

Essential for human rights to be a reference point is that they are well known and that communities feel comfortable engaging with, and feel they own, the concepts and principles within human rights. In order to own human rights principles it is necessary to feel they are in harmony with one's own culture and traditions, or even sourced from one's own culture. Given human rights are universal this should not be too difficult a task. However, at times the sector can become too concerned with how we say things and forgets to highlight the

principles in an easily understood way. Helen Durham advised that we need to:

“Keep in mind what your fundamental message is; don't get caught up in the language.”<sup>25</sup>

This is important not only for cross-cultural efforts to promote rights, but also in cross-sectoral efforts. Becoming more pragmatic in regards to how we discuss rights, without distorting the underlying principles, will open perspectives from a wider group of individuals and will encourage broader discussion, new ideas and greater adherence by governments.

Or in the words of a former Prime Minister:

“To advance the dialogue you need to understand people's culture and what governments will accept and what their perspectives are. Argue not for perfect rights, but practical rights.”<sup>26</sup>

Without this ability to recognise others' perspectives it is possible to derail the process and thwart success:

“When it doesn't work it is usually because of a lack of understanding of the other sides' interests”<sup>27</sup>

Essentially it is about promoting the essence of the rights, without getting caught up in the language surrounding them, thus making them accessible to multiple audiences. The International Committee of the Red Cross has done this by matching principles of International Humanitarian Law to local practices within communities in the Pacific, thus highlighting the spirit behind the law with existing practices rather than attempting to introduce the law as if it is a new concept. The case study of this work is presented on the next page.

**“To advance the dialogue you need to understand people's culture and what governments will accept and what their perspectives are. Argue not for perfect rights, but practical rights.”<sup>26</sup>**

**“Keep in mind what your fundamental message is; don't get caught up in the language.”<sup>25</sup>**

24 Ian Wishart, private interview, Melbourne, 23/6/09

25 Helen Durham, private interview, Melbourne, 20/08/09

26 Malcolm Fraser, private interview, Melbourne, 31/07/09

27 Craig MacLauchlan, private interview, Canberra, 28/08/09

### Case study: Under the protection of the palm – wars of dignity in the Pacific

*Under the protection of the palm* is a book published by the International Red Cross (ICRC) which explores the connections between the traditional practices in the Pacific aimed at limiting war and those limits enshrined by international humanitarian law (IHL).

In introducing the book to NGOs, Jeremy England, the head of the Australia ICRC office, wrote:

“We hope the book brings value to these Pacific traditions and counters the perception, sometimes found in different communities around the world, that IHL is a purely Western set of principles that has no link to the values and aspirations of local traditions.”

The aim of the book was to openly listen to the people of the Pacific and look into the traditional ways people limited the extent of conflict during war. The researchers found that a number of practices were devised specifically to provide clear limitations to warfare that predated contact with Europeans but show direct correlations with modern IHL.

Finding these links and expressing the formal stipulations within the Geneva Conventions and other IHL in ways that echo practices people think of as their own is hoped to stimulate reflection and debate around IHL. In so doing it increases the understanding and acceptance of IHL among diverse communities in the Pacific. Interestingly, the ICRC notes that observations in the Pacific confirm those made in Somalia, in Arab and Islamic traditions and customs in Indonesia. The claim is not made that all traditional practices during war correspond with IHL but that IHL can be placed within the local context and find a home in practices from that culture, rather than be treated as external principles that have been introduced.

Knowing the similarities and links between IHL and local practice is a key factor in encouraging people to adhere to IHL through their local traditions. In the forward of *Under the Protection of the Palm*, Dr Langi Kavaliku, the former Pro Chancellor for the University of the South Pacific and Former Deputy Prime Minister of Tonga, clearly articulates the challenge for obtaining widespread engagement in IHL:

“The real question is, considering the complex situation found in the Pacific, how can the ICRC best pass on its message and encourage authorities and others to adhere to IHL’s universal principles? The aim should not be to change IHL or any of the well established legal norms, but rather **place IHL in this part of the world beyond legal documents and in the ‘minds and souls’ of the peoples** of the Pacific. Thus a focus should be put upon making connections between traditional cultures of the Pacific and the modern codification of IHL.”  
[Emphasis added]

The example provided by this book demonstrates the nature of universality as a practical and accessible notion for IHL. It is not about teaching diverse peoples to speak the language of codified law, but to make that law speak to the people in their own languages by aligning to appropriate customs and traditions. This can be applied to international human rights and demonstrates how localising human rights can be done practically, while maintaining the integrity of the principles.

## Community education on human rights

One of the key factors identified for human rights to have a higher profile in decision-making was public knowledge and engagement. However, we are not doing this very well:

“Human rights loosely informs us but it is not well articulated by the sector and everyone else ... we need to build a bridge [within the public] between understanding and engagement, reach the unreached.”<sup>28</sup>

Competing agendas and short-term outcomes will muddy the waters and push governments towards quick-wins for voters, which may not be consistent with broad human rights principles (asylum seekers and trade negotiations being two such examples). A greater public awareness of human rights was identified as a crucial factor in mitigating this issue and this has been echoed by the national consultation report on the need for a Bill of Human Rights:

“The overwhelming majority of community roundtables reflected the community’s desire to gain a better understanding of human rights”<sup>29</sup>

A greater understanding of human rights and their centrality in development will enable more links to be made between development issues by the public and the sector, therefore reducing the perception of competition between causes.

This has two aspects – the first being that the more understanding there is of human rights, the more pressure the public can place on the government to uphold the standards and adhere to their obligations. The second aspect is that a greater public understanding of human rights will lead to a greater incorporation of human rights into commercial activities. Knowledge of human rights will enable voters to make decisions on a broader array of topics, and in turn demand the same from their representatives.

## New partnerships – community groups and NGOs

Another aspect highlighted was the strength created in advocating with a wide range of perspectives represented within a united message. Community groups were noted as an often overlooked ally in advocacy and lobbying efforts. They bring a different kind of credibility with them of having a personal connection and/or experience with the context of

which one is speaking. When government officials are in contact with a broad-based group with a range of experience and knowledge that is united in a clear message, the credibility is increased, the interest peaked and doors opened.

Denise Cauchi makes a clear recommendation in relation to new partnerships:

“The relationship between NGOs and community groups and how we approach the government together needs to be improved. NGOs have professional credibility but community groups have experience. Having people from different sectors coming together is a key way to lobby, especially when these groups represent mainstream Australia.”<sup>30</sup>

This also means that when questioned, a wide range of representatives will have the knowledge and experience to answer questions realistically. Academics, NGOs, faith-based organisations and diaspora are not always seen as easy partners but can bring new insight to each others’ work and to messaging.

One caution, repeated by two experienced interviewees, is worth noting here. Both mentioned the necessity of being very explicit with your potential allies about your agenda and ensuring they are doing the same. When groups are brought together with different experiences it is possible for the agendas to conflict, not because one is menacing but simply because they are not necessarily complementary. This does not assist the process of collaboration, nor the potential for success.

However, notwithstanding this caution, the strength brought by interesting partnerships can be multi-faceted, both in terms of the impression made on those you are attempting to influence, and the richness brought to your own work by cross pollination.

It also opens avenues to fulfil another role identified by some interviewees as providing a link between communities and governments. Furthermore, some advocacy can be so sensitive that it is not appropriate for all agencies to be involved but they can empower others to do it so that more voices are represented.<sup>31</sup> This enables NGOs to

“... move beyond being third party advocates and establish mechanisms that allow direct dialogue between rights holders (for example, children) and government.”<sup>32</sup>

**“Human rights loosely informs us but it is not well articulated by the sector and everyone else... we need to build a bridge [within the public] between understanding and engagement, reach the unreached.”<sup>28</sup>**

28 Paul Deany, private interview, Melbourne, 17/07/09

29 Human Rights Consultation report, 2009:xvii

30 Denise Cauchi, private interview, Melbourne, 28/5/2009

31 Beth Eggleston, private interview, 6/08/09

32 Nigel Spence, via email, 27/07/09

### **Case study: When differences are united – Humanitarian Crisis Hub's delegation on Palestine**

When Israel invaded Palestine on 3 January 2009 there was widespread outcry in the media and through international forums. Many felt more needed to be said and done and called on their governments to be stronger in their condemnation of what was seen as an illegal war. The newly created Humanitarian Crisis Hub chose to meet personally with key ministers and demonstrate consensus by parties that would be expected to disagree on this controversial issue.

The following was taken from Humanitarian Crisis Hub website: [www.crisishub.org.au](http://www.crisishub.org.au)

#### **GAZA DELEGATION MEETS FOREIGN MINISTER IN CANBERRA**

With the situation in Gaza remaining of international concern, Humanitarian Crisis Hub arranged for a multi-organisation delegation to meet with Foreign Minister Stephen Smith, Shadow Minister for Foreign Affairs Julie Bishop and other federal parliamentarians in mid-March.

Moammar Mashni from Australians for Palestine was joined by Dr Mosheer Amer from the Palestinian Community Association; Dr Peter Slezak, co-founder of Independent Australian Jewish Voices; Reverend Gregor Henderson, President of the Uniting Church in Australia; and Susan Brennan, President of the World YWCA.

“We come from diverse backgrounds,” explains Moammar, “and yet we were so easily able to come together. Quite clearly, we weren't just a radical fringe. A few of us have done a lot of lobbying in the past – I met with more than 70 politicians last year for example – so we established a clear call to action that we stuck to closely.”

In eight separate meetings over two days, the delegation urged the government to use its leverage to secure the immediate lifting of the Israeli blockade on Gaza; expedite a just peace in the Israeli-Palestinian conflict by ending Israel's economic blockade and illegal occupation of Palestinian territories; engage all actors in the political process; and demand the international community put pressure on Israel to immediately end all illegal settlement activities in the occupied Palestinian West Bank.

“We were under no illusions,” continues Moammar, “but it was a successful round of meetings and we had our concerns officially noted. Overall we were encouraged by the discussions that took place around issues broader than just Gaza, and the meeting with the Foreign Minister was informative.

“Australia has an important role to play. When you look at the amount of trade we do with the Middle East, the large number of Middle Eastern students studying here and expatriate Australians working over there, we're a country with influence.

“HumanitarianCrisisHubwasabsolutelyfantasticdoingthetime-consumingbackgroundwork setting up the meetings. They're an organisation that needs to be there so that community groups like ours can network and refine our skills.”

Humanitarian Crisis Hub initiated the meetings as part of its charter to build “the capacity of community groups to engage with the Australian Government and other relevant Australian and international bodies on the protection of people in humanitarian crises”.

## **A broad-based approach to human rights – balancing the concept with the issues**

One of the weaknesses identified during the interviews was that the advocacy space can be cluttered and issues compete instead of contributing to a common positive impact. However, there are opportunities to demonstrate the links between the two arenas and therefore push both forward instead of one at the expense of the other. If each issue-based campaign was designed in such a way as to educate more broadly on human rights, rather than specifically on that issue, there would be a coherent line running through all messages related to human rights and development.

Marc Purcell, the head of the Australian Council for International Development (ACFID) stated:

“Human rights dialogue is segmented and happening around sectors or issues, for example disability or trafficking, during which time an NGO will raise awareness, attention will be gained from journalists, pressure will be put on the government to respond to the issue. There is no evidence of broad-based thinking on human rights in the sector as exists overseas.”<sup>33</sup>

This is not to say that specific issues should be subsumed, but rather that they will serve two purposes – the first being to create awareness, action or policy change for that issue as well as engage different groups. The second is to further the understanding of the role specific rights – or the lack of access to rights – play in the overall achievement of development and reduction of poverty.

## **Finding links beyond the sector: Advocacy networks**

Some interviewees warned that we as a sector are in danger of becoming too insular. It is necessary for NGOs in the development sector to look beyond their NGO-peers when looking to collaborate and learn. In the same way new partnerships are highlighted in the Humanitarian Crisis Hub case study, they were highlighted a number of times in interviews as something to work for. In particular, academic and research institutions, domestically focused agencies, sectoral services, community groups and individuals were identified as relatively untapped resources.

These collaborations not only bring a wealth of new information to development agencies but also enable messages to be taken on by others in ways that will engage new audiences. In addition to these benefits, larger networks working in collaboration represent greater supporter bases than one agency alone and therefore have more credibility when speaking to ministers who often look for links to their electorate.

Another benefit of advocacy networks is that they are able to create new links with similar networks in other countries, creating yet more synergy and enabling smaller agencies or groups to contribute to a much larger and potentially more influential voice. If this is seen as an aim of networking then we are increasing our ability as development NGOs to be

“... a conduit, intermediary, social conscience and link between community, our government and other communities.”<sup>34</sup>

33 Marc Purcell, private interview, Canberra, 10/07/09

34 Paul Deany, private interview, 17/07/09

### **Case study: Australian Disability and Development Consortium**

Excerpt from: *Putting disability on the aid agenda: The Australian Disability and Development Consortium*, by Paul Deany, Coordinator, Australian Disability and Development Consortium

The Australian Disability and Development Consortium (ADDC) is an Asia-Pacific network focusing attention, expertise and action on disability in developing countries. It was developed in response to the estimated 650 million people with disability.

The ADDC was launched in early 2007 and this fledgling network has already helped to put disability firmly on Australia's development agenda. There is now strong political and bureaucratic commitment to disability. The evidence for this includes the new AusAID strategy, *Development for all: Towards a disability inclusive Australian aid program for 2009–2014*.

This commitment from government mirrors the growing recognition in the broader disability and development sectors that disability is a fundamental cause and a consequence of poverty. The ADDC has been a central player in these recent developments. Anecdotal and other evidence indicates that this network's formation and advocacy work was pivotal in this national shift on disability and poverty, demonstrating the value of advocacy networks in policy development.

#### **Beginnings**

The ADDC grew from the Disabilities and Development Working Group instigated by international development agency, CBM Australia, for the Australian Council for International Development (ACFID). The working group started in 2002 and by 2005 had over 50 members. But a growing interest outside the development sector from universities, individuals, disability services and others led to the formation of a larger national and now regional network. ADDC membership has grown to over 350 individuals and agencies representing a number of disabilities, development and academic agencies.

#### **The future**

As Australia's, and now the region's, largest network of agencies working on disability in developing countries, the ADDC is in a unique position to lead responses on disability. Rather than being an implementer of disability programs itself, ADDC is a network which includes a wide range of agencies and practitioners with extensive experience in disability and development.

As such, the ADDC is a key reference group for its members as well as the government and AusAID as they implement their strategy for a disability-inclusive aid program.

#### **Conclusion**

The ADDC has demonstrated that coordinated, vocal advocacy can unify fragmented national interest on disability in developing countries and help foment strong national action. Much more work remains, but the early indicators are that the ADDC is an important and necessary vehicle for Australia's international work on disability issues.

## Be honest in your intentions: Split advocacy and fundraising<sup>35</sup>

Too often advocacy is linked to fundraising asks. However, not once was raising money identified as a role for NGOs vis-à-vis their influence on the government to be responsible global citizens. Obviously raising money is a necessary and important component of development, but in relation to policy influence and advocacy it was thought very important to separate the two.

Advocacy in the context of human rights dialogue aims to influence policy towards a greater alignment with human rights principles. Part of doing this was believed to require public support and involvement, which is where the messages can become entangled with fundraising efforts. However, almost every interview stressed the importance of multi-agency collaboration, sensitive tactics and links to diverse communities. If this is to be achieved, competition over resources and profile-raising of your own agency becomes counter-productive. A 2008 Plan International Study on how the agency integrates advocacy noted some of the tensions and dangers for agencies maintaining good practice for advocacy.

“Though for many the term advocacy has broadened to encompass a wider approach to achieving change it has also been abused and brings to the fore some of the tensions inherent in the NGO sector.

Advocacy work of NGOs is often most successful when it is deliberately unattributable. For example this might be quietly using opportunities to influence governments in a way that allows the government to take credit for new initiatives or approaches, supporting the voices of others in discussions and debates, or joining in collaborative lobbying or campaigning initiatives that bring together the voice, analysis and common purpose of a number of organisations to change public opinion or shift government policy. Despite commitments on paper many NGOs find this more collaborative facilitative role challenging as they jockey for the profile required for fund-raising purposes. The current drive of many of the largest NGOs for growth in income driven by the unproved assumption that this will lead to more impact is particularly undermining of strategic collaborative advocacy work.”<sup>36</sup>

Being honest in the goals and intentions of your activities is not only for the health and facilitation of partnership but also essential to maintain credibility, accountability and integrity of advocacy and human rights dialogue.

## Know your stuff

Several participants stressed the need to be very well researched and up-to-date in order to influence the government. Too often in NGOs where resources are stretched, advocacy focal points are required to represent the organisation in many varying roles. This can lead to a surface level knowledge and therefore an inability to press government representatives beyond an initial response. It can also mean NGOs lose credibility and are not seen as necessary sources of information, but as well meaning but ill-informed. Examples were cited of NGOs being caught out by government representatives that have more up-to-date information.

At present we tend to

“... ask for international frameworks to be applied, which is fine, but we actually need to go deeper. We should not just call on governments to do something, but should be demonstrating how to operationalise on the ground, with field examples.”<sup>37</sup>

This statement was echoed by Helen Durham who also suggested NGOs do not go deep enough when engaging in human rights dialogue: “often questions asked of government stop at ‘will you ratify’ and do not follow up enough on that ratification.”<sup>38</sup>

To be able to do this it is essential that we do not try to do everything but instead have clear and relevant knowledge about the key areas each NGO or network acts on. Durham went on to outline it quite simply as a need for NGOs to:

- 1 Know your stuff
- 2 Know your area
- 3 Know what others know

In this way the dialogue will be stronger and the relationship formed with government more effective. It will also be a more time-consuming process which demands that organisations are clear about what they will be involved in, where collaboration is necessary and where other agencies are better placed to engage with certain issues.

**“We should not just call on governments to do something, but should be demonstrating how to operationalise on the ground, with field examples.”<sup>37</sup>**

35 This heading is a quote from Paul Deany, private interview, Melbourne, 17/07/09

36 Chapman, Jennifer. ‘Plan International moving forwards in integrating advocacy’. April 2008. Unpublished

37 Beth Eggleston, private interview, Melbourne, 06/08/09

38 Helen Durham, private interview, Melbourne, 20/08/09

**“[We] need to focus on building the relationship, it’s superficial and too traditional if we don’t acknowledge what the government is doing right, we need to become more a treasured partner than a whinging annoyance.”<sup>40</sup>**

### **Choose appropriate tactics and be sensitive**

With a remit as broad as influencing decision makers, those involved in advocacy have a wide array of tactics to choose from. Two areas were mentioned repeatedly in the interviews: social networking and media. Both would be used to create a ground-swell of public opinion to in turn place pressure on decision makers, but a caution was voiced. Almost all interviewees imagined an ideal space for dialogue that consists of both private influence and public action.

The choice between private influence and public action needs to be made carefully and can tie into the points made above regarding the separation of profile-raising, fundraising and true dialogue and advocacy.

“Some say private spaces are the best, but public and private spaces are not mutually exclusive. We have public spaces which is one aspect that makes our country good. However, issues that are particularly sensitive may need private spaces. It is a balance as you need to ensure you are not closing off certain avenues. When NGOs chose to go to the media it can help because it raises awareness of the issue, but it can also be a frustration. Advocates must use all mechanisms, but know their consequences.”<sup>39</sup>

One suggested tactic was to focus more on the relationship that facilitates information sharing and influence rather than on what is not being done.

“[We] need to focus on building the relationship, it’s superficial and too traditional if we don’t acknowledge what the government is doing right – we need to become more a treasured partner than a whinging annoyance.”<sup>40</sup>

39 Craig MacLachlan, private interview, Canberra, 28/08/09  
40 Beth Eggleston, private interview, Melbourne, 6/08/09

## 5. Recommendations

Based on the interviews and input from others, the following recommendations are made to instigate a wider discussion in the sector as to how we can improve our effectiveness. One of my objectives in doing this research was to contribute to a broader understanding of effective human rights dialogue. While the research itself has taught me a lot, the broader understanding can only be achieved through wider discussions and debate. I hope that these recommendations can be used for this purpose.

### Agencies

- 1 Tighten job descriptions of advocacy focal points to allow for more specialisation, which will enable in-depth knowledge of advocacy issues and avoid the generalist approach which requires individuals to know a little about a lot but not be experts in anything
- 2 Seek new partnerships from the domestic sector and community groups so that the wide appeal and diverse backgrounds will enable innovative approaches and will add credibility to advocacy efforts
- 3 Be transparent regarding objectives of a campaign to ensure fundraising objectives and advocacy objectives are clear and separated
- 4 Ensure the use of human rights concepts are not restricted by our preoccupation with the formality of the language but instead use common language to engage the public.
- 5 Broaden our engagement with the Australian Government so human rights are more easily embedded in decision making, and not only located in DFAT and AusAID.

### ACFID

- 1 Facilitate the discussion to find an overall sector objective so that our individual advocacy activities retain their sectoral interests but contribute to a broad and united goal and the sector presents a more coordinated approach
- 2 Continue the promotion of advocacy training and ensure it addresses choice of strategies, goals of advocacy and the potential points for government engagement
- 3 Promote more work on community engagement on human rights, how we do it and what the purpose of it is in relation to advocacy

## 6. Conclusion

Two main areas became the focus of the interviews: what is the vision of success that the sector is pursuing, and what are the most successful strategies to get there.

The sector needs to view human rights dialogue as leading towards an explicit common goal. This paper suggests that the common goal should be articulated around the notions of principled decision making, active promotion of human rights by the government and a human rights culture in Australia.

In this culture human rights are seen as integral to all areas of government and the public expects this to be the case. This broad view is not solely based on specific human rights issues but looks to the principles of human rights to be the foundation of government and civil society. Campaigns on specific issues then become a means to achieve the broader goal as well as an end unto themselves.

While this will not eliminate all the challenges within the development sector when it comes to engaging on human rights issues, it will ensure there is a common thread running through our activities that is explicit and supports domestic messaging as well. It will enable previously disparate issues to be linked in a logical way, thereby not only pushing for specific action but also supporting each other in their links to the broader vision. This is a slight shift in vision from advocacy on development issues being seen as an end unto itself, towards viewing the development sector as also being an integral part of creating a human rights culture in Australia. In turn, this human rights culture will enable the Australia public and the Australian Government to be more active and consistent in the pursuit of development and the human rights therein.

The success or failure of tactics is not necessarily easy to identify but those interviewed reflected on their own experiences and observations of what leads to more productive dialogue and influence. The recommendations within this paper are intended to inspire and instigate discussion and debate, to add to these reflections.

One of the key areas for success is to capture lessons learned and the experience of those operating in this arena so that the same mistakes are not made. Ideally this will lead to our

sector being more strategic and ultimately contributing to a greater adherence, promotion and protection of human rights through Australian development efforts.

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