INTERNET

The Proof and Official Hansard transcripts of Senate committee hearings, some House of Representatives committee hearings and some joint committee hearings are available on the Internet. Some House of Representatives committees and some joint committees make available only Official Hansard transcripts.

The Internet address is: http://www.aph.gov.au/hansard
To search the parliamentary database, go to: http://search.aph.gov.au
JOINT COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE
Human Rights Subcommittee
Monday, 12 May 2003

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

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

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

Terms of reference for the inquiry:

To inquire into and report on:

- the role of human rights and good governance education in the promotion of fair and sustainable social, political and economic development;
- Australia’s involvement in human rights and good governance education in the Asia Pacific region identifying achievements and obstacles to further progress;
- the involvement of the UN and other international and regional government and non-government organisations in promoting human rights education and good governance in the Asia Pacific region; and
- progress made in the Asia Pacific region towards the realisation of the goals of the United Nations Decade for Human Rights Education
PASCOE, Ms Felicity, Executive Officer, Centre for Democratic Institutions, Research School of Social Sciences, Australian National University

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr Rich—There is an issue being debated in Thailand now which I am afraid is just dominating the whole of the human rights debate in that country, and that is the—it seems—murder by officials of the state of up to 2,000 people involved in drug trafficking. In fact, one of the very few public officials that has been prepared to criticise the government is a member of the Human Rights Commission, and he has been singled out for criticism by government ministers for speaking in public when they see that all this should be done privately. I think that
is one of the great issues facing Thailand now. We do not know whether this spate of killings is police or rogue police who are taking the law into their own hands. I guess the positive thing is that there are people in Thailand prepared to speak out on that issue.

Senator HARRADINE—One of those was a commission member?

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

CHAIR—A courageous step.

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

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

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

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

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

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

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

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

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

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

Mr BAIRD—I was particularly interested in the last comment and the comment you had made before about the importance of individuals and basically, I suppose, champions that you can find within the government to promote human rights. I wonder whether you thought that we were doing enough to bring to Australia, under the visitor program, those who could be useful to
us in terms of human rights promotion within their countries as well. Do you see evidence of that? Are we getting the right people? There is a limited budget I know.

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

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

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

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

Mr Rich—Yes. Certainly if you throw in the concept of rule of law, that is what investors are looking for—that sort of certainty in what they are doing. I think we have to remain firmly of the view in the theoretical debate that human rights and democracy are not luxuries but are the means of achieving these other objectives. That is an important part of the theoretical debate. In terms of the practical aspect of how to deal with issues, it is not linear; there are always setbacks in the promotion of human rights and democracy in the developing world. I have criticised Thailand, but it has been a great champion because it took the decision virtually by itself that it had to move in this direction to solve its problems and it has taken tremendous steps in that regard. That is why we as a centre are so keen to see Thailand succeed in this process, but you would have to say that it has taken a couple of steps backwards in the last year or two. We can only be hopeful and continue to work with them in trying to maintain the direction they are going in, even though there have been some setbacks.
CHAIR—Mr Rich, I refer to your fourth recommendation, which was about reports to human rights treaty committees being drafted for domestic educative purposes. I think that is a very valuable concept and I would like your comments on whether it was taken up in the human rights treaty implementation workshops that you held. Also, in your experience, are the sorts of countries with which CDI is working in the practice of making their reports under their human rights treaty obligations? For example, PNG was raised recently before CHR 59 in the context of their position there being a little fluid, for want of a better term.

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

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

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

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

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

Mr Rich—I do not deny that for an instant. If you asked an individual in a bread queue what they wanted, they would say that they wanted bread. But the point in terms of the theoretical reason they are in that bread queue is that their human rights have not been respected. Zimbabwe
is a good example of where the leadership took a policy decision to starve the opposition and starve those areas that did not vote for them.

Senator FERGUSON—And they still are.

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

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

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

Senator FERGUSON—in the long-term.

Mr Rich—in the long-term.

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

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

CHAIR—that is twice, in fact.

Senator FERGUSON—I can understand that.

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

Senator FERGUSON—they have geography against them as well.

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

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

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

Mr Rich—Yes.

CHAIR—Can you update us on that?

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

CHAIR—Who constituted the preliminary mission?

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

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

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

Mr Rich—that is one of our civil society interlocutors.

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

Mr Rich—I agree. I was saying to another member of your subcommittee about how we cannot just pick people in our image. Yes, Australia is a very secular society and we do things in a secular way but that is not the way that the Pacific does things. It is an interesting concept that the church in the Pacific have basically become part of custom. They have integrated themselves
into Pacific custom and it would be an error to ignore the church. We think of the church
groups—not the church as such—as part of civil society and we certainly invite them along
whether it is in Papua New Guinea or in the Solomons. They are a very important part of our
work. Interestingly, we have another project that I mentioned briefly—a Learning Circles project
in Vanuatu. Most of the Learning Circles are church based.

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

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

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

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

CHAIR—No—I don’t believe it!

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

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

Mr Rich—I do not think we did; no.

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

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

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