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# Human Rights and Australian Aid and Development

Submission to the Independent Review of Aid  
Effectiveness

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**Human Rights Law Resource Centre Ltd**

Level 17, 461 Bourke Street

Melbourne VIC 3000

Australia

[www.hrlrc.org.au](http://www.hrlrc.org.au)



Rachel Ball and Meg O'Brien  
Human Rights Law Resource Centre Ltd  
Level 17, 461 Bourke Street  
Melbourne VIC 3000

T: + 61 3 8636 4433

F: + 61 3 8636 4455

E: [rachel.ball@hrlrc.org.au](mailto:rachel.ball@hrlrc.org.au)

W: [www.hrlrc.org.au](http://www.hrlrc.org.au)

### **About the Human Rights Law Resource Centre**

The Human Rights Law Resource Centre is a non-profit community legal centre that promotes and protects human rights and, in so doing, seeks to alleviate poverty and disadvantage, ensure equality and fair treatment, and enable full participation in society. The Centre also aims to build the capacity of the legal and community sectors to use human rights in their casework, advocacy and service delivery.

The Centre achieves these aims through human rights litigation, education, training, research, policy analysis and advocacy. The Centre undertakes these activities through partnerships which coordinate and leverage the capacity, expertise and networks of pro bono law firms and barristers, university law schools, community legal centres, and other community and human rights organisations.

The Centre works in four priority areas: first, the effective implementation and operation of state, territory and national human rights instruments, such as the *Victorian Charter of Human Rights and Responsibilities*; second, socio-economic rights, particularly the rights to health and adequate housing; third, equality rights, particularly the rights of people with disabilities, people with mental illness and Indigenous peoples; and, fourth, the rights of people in all forms of detention, including prisoners, involuntary patients, asylum seekers and persons deprived of liberty by operation of counter-terrorism laws and measures.

The Centre has been endorsed by the Australian Taxation Office as a public benefit institution attracting deductible gift recipient status.

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## 1. Introduction

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### 1.1 Executive Summary

1. In November 2010 the Australian Government established an independent panel to undertake a review on the future direction of Australia's aid program (the **Review**). This submission to the review panel focuses on part (c) of the Review's Terms of Reference, namely, 'the program's approach to efficiency and effectiveness and whether the current systems, policies and procedures maximise effectiveness'.
2. The Human Rights Law Resource Centre (**HRLRC**) submits that the effectiveness of the Australian aid and development programs would be enhanced through the adoption of a human rights-based approach to aid and development assistance.
3. Australia is subject to obligations under international human rights law to promote and protect human rights through international co-operation.<sup>1</sup> Further, the promotion and protection of human rights is an important objective in its own right and aid and development assistance is one of the ways in which Australia can promote fairness, justice, equality, respect and the rule of law – to the world. As British Foreign Secretary William Hague recently stated in a speech on 'Britain's Values in a Networked World', 'as a democratic country we must have a foreign policy based on values, as an extension of our identity as a society. Our notions of fairness, of dignity, liberty and justice are part of the rich endowment of our history.'<sup>2</sup>
4. However, in accordance with the terms of reference, this submission focuses on the instrumental role that the adoption of a human rights-based approach can play in improving the quality and effectiveness of international aid and development programs.<sup>3</sup>
5. The low status of human rights in Australia's aid program was recently identified by the Joint Standing Committee on Foreign Affairs, Defence and Trade in its report on 'Human Rights in the Asia-Pacific' which recommended that AusAID 'adopt a human rights-based approach to the planning and implementation of development projects'.<sup>4</sup> This submission builds on this recommendation and is set out as follows:
  - (a) section two examines the role of human rights in Australia's aid and development programs;
  - (b) section three discusses what it means to take a human rights approach to aid and development;

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<sup>1</sup> Article 2(1) of the *International Covenant on Economic, Social and Cultural Rights* International Covenant on Economic, Social and Cultural Rights, 16 December 1966, 003 UNTS 3 (entered into force January 2, 1976) requires States party to take steps... to the maximum of its available resources, with a view to achieving the full realisation of the rights in the Covenant.'

<sup>2</sup> William Hague (British Foreign Secretary), 'Britain's Values in a Networked World', Speech at Lincoln's Inn, London, 16 September 2010 at <http://www.fco.gov.uk/en/news/latest-news/?view=News&id=22864405>.

<sup>3</sup> OECD, Development Assistance Committee Statement, 1997, p.8.

<sup>4</sup> Joint Standing Committee on Foreign Affairs, Defense and Trade, *Human Rights in the Asia-Pacific: Challenges and Opportunities* (2010) [Recommendation 2] (Joint Committee Report).

- (c) section four considers the benefits that would flow from the adoption of a human rights approach, including:
    - (i) providing a clear normative and analytical framework for Australia's aid and development programs;
    - (ii) contributing to good governance;
    - (iii) achieving effective outcomes in poverty reduction; and
    - (iv) creating sustainable and holistic aid and development programs.
6. The HRLRC makes the following recommendation:

**Recommendation 1:**

The promotion and protection of human rights be prioritised as the key aim and instrument of Australia's aid and development programs.

## 2. Human Rights in Australia's Aid Program

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7. The Australian Government has stated that it seeks to 'maximise the benefits for human rights in all development assistance.'<sup>5</sup> It also claims that all Australian aid '[a]t the broadest level... contributes to the realisation of human rights'.<sup>6</sup>
8. The Government takes the position that 'development and human rights are interdependent and mutually reinforcing' and has set out six principles through which Australia's aid program supports human rights:<sup>7</sup>
- (a) human rights are a high priority for the Government. Civil and political rights are ranked equally with economic, social and cultural rights;
  - (b) the aid program will continue to undertake activities that directly address specific economic, social, cultural, civil and political rights. A particular emphasis will be on the creation of durable institutional capacity to promote and protect human rights;
  - (c) the emphasis will be on the practical and attainable. AusAID, as the Government's aid agency, will pursue practical aid activities in support of human rights. These activities complement and build upon high-level dialogue on human rights. Dialogue on human rights and representations about individual human rights cases will normally be carried out through diplomatic channels;
  - (d) the aid program will develop activities primarily as a result of consultations and cooperation with partner countries on human rights initiatives. Regional and multilateral activities will also be undertaken;

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<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> AusAID, *Human Rights and Australia's Aid Program*, available at [www.ausaid.gov.au/keyaid/humanrights.cfm](http://www.ausaid.gov.au/keyaid/humanrights.cfm).

- (e) considerable care will continue to be applied to the use of aid sanctions associated with human rights concerns. The Government will consider such sanctions on a case-by-case basis. Aid conditionality based on human rights concerns would only be used in extreme circumstances since it can jeopardise the welfare of the poorest and it may be counterproductive; and
  - (f) AusAID will continue to link closely with other arms of the Australian Government on governance and human rights issues. AusAID will also liaise with NGOs and human rights organisations in Australia.
9. The Government also implements programs that assist in the realisation of human rights through development, including the Human Rights Fund and the Human Rights Grants Scheme. Through these funds, the Government provides support for the Asia Pacific Forum of National Human Rights Institutions, the Office of the High Commissioner for Human Rights and a diverse range of NGOs and institutions in Australia ODA countries.
10. Despite this clear conceptual support for human rights, the protection and promotion of human rights is not an explicit goal of the Government's foreign aid and development programs, nor has the Government adopted a human rights-based approach to aid and development, as described in section three, below.<sup>8</sup>

### **3. Human-Rights Based Approaches to Aid and Development**

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#### **3.1 What are Human Rights?**

11. Human rights belong to all people. They arise from the fact that all persons are human beings and, as such, are born free and equal in dignity and rights.<sup>9</sup>
12. The International Covenant on Economic, Social and Cultural Rights (**ICESCR**) and the International Covenant on Civil and Political Rights (**ICCPR**) enshrine the civil, political, economic, social and cultural minimum standards that must be respected, protected and fulfilled to enable people to live with dignity.<sup>10</sup> By ratifying both of these covenants, Australia has committed to respect, protect and fulfil the rights set out in these covenants.
13. Under international human rights law, all human rights are universal, indivisible, interdependent and interrelated.<sup>11</sup> Human rights provide a comprehensive scheme of core minimum standards that conceptually should not – and practically cannot – exist in isolation.

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<sup>8</sup> Ibid.

<sup>9</sup> Universal Declaration of Human Rights, GA Res. 217A(III), 10 December 1948, Article 1. The ICCPR also states that '[a]ll persons are equal before the law and are entitled without any discrimination to the equal protection of the law'.

<sup>10</sup> International Covenant on Economic, Social and Cultural Rights, 16 December 1966, 003 UNTS 3 (entered into force 2 January 1976); International Covenant on Civil and Political Rights, opened for signature 16 December 1966, 999 UNTS 171 (entered into force on 23 March 1976).

<sup>11</sup> The Vienna Declaration and Programme of Action, as adopted by the World Conference on Human Rights on 25 June 1993, [A/CONF.157/23], [5]. See also Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, Maastricht, January 22-26, 1997, [4].

Interdependence and indivisibility means that priority should not be provided to certain rights or sets of rights.<sup>12</sup> It also means that the full enjoyment of certain rights is dependent on the full enjoyment of other rights.

### 3.2 Human Rights and Development

14. The realisation of human rights should be both the principal means to, and primary goal of, international development assistance.<sup>13</sup> The link between the 'means' and the 'end' in development assistance is outlined in the United Nations Development Program's 2000 *Human Development Report*.<sup>14</sup>

The promotion of human development and the fulfilment of human rights share, in many ways, a common motivation, and reflect a fundamental commitment to promoting freedom, well-being and dignity of individuals in all societies.

15. This 'common motivation' is most obvious in the case of economic, social and cultural rights, as freedom from poverty and the right to an adequate standard of living are almost synonymous.<sup>15</sup> However, civil and political rights such as the right to participate in public affairs and to freedom of expression are also relevant. Such rights ensure government accountability, facilitate the minimisation of corruption and 'can be extremely important for enhancing the capabilities of people who are poor'.<sup>16</sup>

### 3.3 Human Rights Based Approach to Aid and Development

16. A human rights-based approach can be compared to needs-based and charitable approaches to development which do not place the same emphasis on systemic inequalities and unjust power relations.<sup>17</sup>
17. In general terms, a human rights-based approach to aid and development requires that the development of policies, programs and the delivery of services be:
- (a) *fair and non-discriminatory* — this requires that the policy or service be targeted at the alleviation of disadvantage and the elimination of discrimination;<sup>18</sup>
  - (b) *participatory and empowering* — this requires that the policy or service be informed by the active participation of key stakeholders and expand the choices and freedoms available to those stakeholders;<sup>19</sup>

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<sup>12</sup> The Vienna Declaration and Programme of Action, as adopted by the World Conference on Human Rights on 25 June 1993, [A/CONF.157/23], [5].

<sup>13</sup> Amartya Sen, *Development as Freedom* (Oxford University Press, Oxford, 1999) 36.

<sup>14</sup> United Nations Development Project, *Human Development Report 2000*, <<http://www.undp.org/hdr2000/english/HDR2000.html>> at 27 August, 2005 at 19.

<sup>15</sup> Article 7 of the International Covenant on Economic, Social and Cultural Rights recognises the right to an adequate standard of living: *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, U.N. Doc. A/6316, art. 2(1) (entered into force 3 January 1976).

<sup>16</sup> *Human Development Report*, above n 6, 20.

<sup>17</sup> See discussion in Australian Council for International Development, *Millennium Development Rights*, (2009).

<sup>18</sup> UN OHCHR, Draft Guidelines: A Human Rights Approach to Poverty Reduction Strategies (2002) 2.

- (c) *holistic* — this requires that the policy or service have regard to the civil, political, economic, social and cultural determinants of wellbeing of affected persons;<sup>20</sup> and
- (d) *transparent and accountable* — this requires that the policy or service identify the persons or entities responsible for implementation, sets targets and indicators to measure progress, and establishes mechanisms to ensure accountability.<sup>21</sup>
18. Consistent with a human rights-based approach to aid, the Office of Development Effectiveness' Annual Review of Development Effectiveness 2009 has identified that the delivery of Australia's aid program would be enhanced if it engaged a range of non-state actors in addition to state actors. This is because non-state actors (such as civil society, the media and academic and the private sector) all play important roles in delivering services.<sup>22</sup> The review also found that enhancing AusAID's understanding of the complex ways the government and civil society organisations interact, and viewing these relationships 'holistically' is crucial to increasing aid effectiveness.<sup>23</sup>
19. The Office for the High Commission of Human Rights (**OHCHR**) defines a human rights-based approach as a:<sup>24</sup>
- conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. It seeks to analyse inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress.
20. The OHCHR has identified the following principles as key aspects of a human rights-based approach to poverty reduction:<sup>25</sup>
- Identifying and prioritizing action to improve the situation of the poorest;
  - Analysing the underlying power relations and the root causes of discrimination;

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<sup>19</sup> UN OHCHR, Draft Guidelines: A Human Rights Approach to Poverty Reduction Strategies (2002) 2, 4. See also Gerry Stoker, Public Value Management (PVM): A New Resolution of the Democracy/Efficiency Tradeoff (draft paper) (2003) 9 Institute for Political and Economic Governance at [www.ipeg.org.uk/Paper%20Series/PVM.pdf](http://www.ipeg.org.uk/Paper%20Series/PVM.pdf).

<sup>20</sup> UN OHCHR, Draft Guidelines: A Human Rights Approach to Poverty Reduction Strategies (2002) 2-3.

<sup>21</sup> UN OHCHR, Draft Guidelines: A Human Rights Approach to Poverty Reduction Strategies (2002) 2, 4-5. See also Geoff Mulgan and Andrea Lee, Better Policy Delivery and Design: A Discussion Paper (2001) and Mark Moore, Creating Public Value: Strategic Management in Governance (1995) 10.

<sup>22</sup> Office of Development Effectiveness, "Annual Review of Development Effectiveness 2009", available at <http://www.ode.ausaid.gov.au/news/news19.html>, p 36.

<sup>23</sup> Ibid, p 58.

<sup>24</sup> Office of the United Nations High Commissioner for Human Rights, *Frequently Asked Questions on a Human Rights-based approach to Development* (2006), available at <http://www.ohchr.org/Documents/Publications/FAQen.pdf>.

<sup>25</sup> Office of the United National High Commissioner for Human Rights, *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation* (2006), p.9

- Ensuring that both the process and the concrete poverty reduction targets are consistent with international human rights standards;
- Ensuring close links between macroeconomic design, sectoral initiatives, and 'governance' components and principles such as transparency and accountability;
- Ensuring a basic standard of civil and political rights guarantees for active, free and meaningful participation, including freedom of information and freedom of association; and
- Identifying indicators and setting benchmarks so that the progressive realization of economic and social rights can clearly be monitored.

21. The foreign aid and development policies and programs of Spain, Sweden and the UK provide examples of how a human rights-based approach works in practice. More details about the policies of these states are outlined in below. A key feature of the approaches taken by these states, particularly Spain and Sweden, is the centrality of human rights to their aid and development programs. Unlike the approach taken by AusAID, which sees human rights as incidental to aid and development, Spain and Sweden view human rights as both an instrument and goal of effective international development assistance.

**(a) Spain**

22. The Spanish Agency for International Development Cooperation (**AECID**) is responsible for designing, implementing and managing Spain's foreign aid programs. The policies underlying AECID's work are outlined in its 'Master Plan'. This Master Plan is produced and formulated every four years. The current Master Plan concerns the period 2009 to 2012.

23. The current Master Plan emphasises that AECID is to take a human rights-based approach to foreign aid. In other words, development assistance is inextricably linked to human rights.<sup>26</sup>

The Development Policy of Spain conceives development as a right providing people with increasing opportunities to freely and securely choose, with respect for diversity, equality and justice, in a clean and healthy environment, guaranteeing at the same time this right to the development of future generations. This makes the fight against poverty a struggle for the full exercise of rights, implying not just their recognition but also people's empowerment to enable them to make use of their right to be heard.

24. This is also reflected in the section in the Master Plan entitled 'Values, Vision and Mission':<sup>27</sup>

...this Third Master Plan is committed to making the values of freedom, responsibility, equality, justice, non-discrimination, solidarity, active respect, dialogue, coherence and transparency – based on the Human Rights value system– the touchstone for our action, driving the attitudes and changes demanded by the drive to eradicate poverty... The specific role of those engaged in Spanish Cooperation is to accompany the development processes of people, groups and societies in attaining full exercise of their rights.

25. This human rights-based approach is also reflected throughout Spain's foreign aid and development policies.

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<sup>26</sup> *The Master Plan of the Spanish Cooperation, Main Guidelines*, p 12.

<sup>27</sup> *The Master Plan of the Spanish Cooperation, Main Guidelines*, p 14.

**(b) Sweden**

26. Sweden's foreign aid policies and practices are the responsibility of the Swedish Ministry for Foreign Affairs and the Swedish International Development Cooperation Agency (**Sida**). Since 2003, the main policy governing Swedish foreign aid has been the Global Development Policy, when it was adopted by the Riksdag (Swedish Parliament).<sup>28</sup>
27. The Global Development Policy establishes that two perspectives permeate all parts of Sweden's approach to foreign aid: "a rights perspective based on international human rights conventions; and the perspectives of the poor". Insofar as the Global Development Policy is driven by a rights perspective, Sweden's Ministry of Foreign Affairs has said that this reflects the "consensus" in the international community that there is a link between sustainable global development and respect for human rights.<sup>29</sup>
28. The Global Development Policy states that, in essence, a "rights perspective" means that the "measures taken towards equitable and sustainable development must be compatible with respect for human rights".<sup>30</sup> The Global Development Policy goes on to elaborate on what a rights-based perspective on development means:<sup>31</sup>
- Ratification of the Universal Declaration of Human Rights and several subsequent human rights conventions has been almost universal. These conventions therefore represent a common global foundation of values. A rights perspective is based on these common standards and norms. The recommendations drawn up by UN convention committees as regards application of the basic human rights conventions are important instruments for implementation of a global development policy...
- The rights perspective focuses on discriminated, excluded and marginalized individuals and groups. People must be able to enjoy their rights regardless of sex, age, disability, ethnic background and sexual orientation. This perspective helps to identify areas in which special actions are required to ensure that the effects of various decisions are as fair as possible. This renders the individual a subject and bearer of rights rather than the object of measures...
29. Sida's Action Plan on Aid Effectiveness 2009-2011 is also based on a rights perspective. This document identifies areas of development that have the potential for increased effectiveness and where Sida needs to improve.<sup>32</sup>

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<sup>28</sup> See *Shared Responsibility: Sweden's Global Development Policy* (Gov. Bill 2002/03:122, Report 2003/04:UU3, Comm. 2003/04:112). The policy was adopted by the Riksdag in 2003. It is available through <http://www.sweden.gov.se/sb/d/574/a/24520>.

<sup>29</sup> Ministry for Foreign Affairs Sweden, *Strategy for Multilateral Development Cooperation*, 30 March 2007, p. 2.

<sup>30</sup> See *Shared Responsibility: Sweden's Global Development Policy* (Gov. Bill 2002/03:122) available through <http://www.sweden.gov.se/sb/d/574/a/24520>, at p. 19.

<sup>31</sup> See *Shared Responsibility: Sweden's Global Development Policy* (Gov. Bill 2002/03:122) available through <http://www.sweden.gov.se/sb/d/574/a/24520>, at pp. 20-21.

<sup>32</sup> Swedish International Development Cooperation Agency, *Action Plan on Aid Effectiveness 2009-2011*, available at [http://www.sida.se/Global/About%20Sida/S%c3%a5%20arbetar%20vi/Action%20Plan%20on%20Aid%20Effectiveness%202009-2011\\_eng.pdf](http://www.sida.se/Global/About%20Sida/S%c3%a5%20arbetar%20vi/Action%20Plan%20on%20Aid%20Effectiveness%202009-2011_eng.pdf).

**(c) United Kingdom**

30. In the UK, foreign aid is managed by the Department for International Development (**DFID**). Although the UK has not completely adopted a human rights-based approach to foreign aid, human rights law has been incorporated into its foreign aid policies.<sup>33</sup> This approach was first evident in DFID's 1997 White Paper which identified human rights as being an element in its new "partnership" approach to international development. The 1997 White Paper also explicitly supported a "human rights based approach" to the promotion of core labour standards. The 2000 White Paper uses the term "rights based approach to development".
31. This approach was further detailed in DFID's 2000 Target Strategy Paper, *Realising Human Rights for Poor People*. According to DFID:
- The human rights approach to development means empowering people to take their own decisions, rather than being the passive objects of choices made on their behalf... A rights perspective means incorporating the empowerment of poor people into our approach to tackling poverty. It means ensuring that poor people's voices are heard when decisions which affect their lives are made. It means recognising that equality matters. Addressing discrimination in legislation, policies and society contributes to an environment in which excluded people have more control over their lives. A rights approach also means making sure that citizens can hold governments to account for their human rights obligations.
32. More recently, various child-focused NGOs and DFID commissioned a study on the "child rights climate" within DFID.<sup>34</sup> This study found that "As an organisation, DFID does not adopt a child rights approach to its work",<sup>35</sup> but recommended strategies for assisting DFID to move towards adopting a child-rights approach. This report remarks more broadly that:
- ...the DFID approach – as expressed in the above Strategy Paper – recognises the centrality of international human rights law and standards. Unlike the 'Common Understanding', however, the DFID framework does not insist that all its development cooperation activities should directly strive towards the realisation of at least one human right, rather than the realisation on human rights being an incidental result of development.
33. Nonetheless, DFID remains broadly committed to human rights. For example, on its website it states that:
- We continually monitor how we deliver aid so that more goes where it is needed. If we become aware of obstacles in a country, such as corruption or human rights abuses, we may stop our aid or change the way we deliver it.

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<sup>33</sup> See Piron H and Watkins P, Overseas Development Institute, *DFID Human Rights Review: A review of how DFID has Integrated Human Rights into its Work*, July 2004. This report found that DFID shows "a commitment to human rights... However, at present, there seems to be a lack of a clear strategy at the centre about the priority to be given to human rights within the organisation and in its programmes."

<sup>34</sup> Maguire, S, A Study of the Child Rights Climate within the UK's Department for International Development, September 2010.

<sup>35</sup> Maguire, S, A Study of the Child Rights Climate within the UK's Department for International Development, September 2010, p. 4.

34. So although the UK is yet to fully adopt a human rights-based approach to foreign aid and development programs, it has recognised their centrality to, and importance in, aid and development programs.

## **4. Benefits of a Human Rights-Based Approach to Aid and Development**

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### **4.1 Introduction**

35. The United Nations Development Program considers a more integrated approach to human rights and development can 'bring significant rewards, and facilitate in practical ways the shared attempts to advance the dignity, well-being and freedom of individuals'.<sup>36</sup>
36. Support for this position can be found in two studies commissioned by the Human Rights and Development Task Team of the OECD Development Assistance Committee Governance Network (GOVNET). The first, *Integrating Human Rights into Development: Donor Approaches*, examine the integration of human rights into aid and development modalities.<sup>37</sup> The second, *Experiences and Challenges and Aid Effectiveness and Human Rights: Strengthening the Implementation of the Paris Declaration* discusses the linkages between human rights and aid effectiveness.<sup>38</sup>
37. These two reports identify several ways in which human rights can contribute to more effective aid and development. Some of these are considered below.

### **4.2 Human rights provide a clear normative and analytical framework**

38. Human rights principles provide a comprehensive international legal and normative framework that has the support of both donor and recipient countries. All UN member states have ratified at least one of the seven core UN human rights treaties and a significant majority of states have ratified four or more treaties.
39. A human rights-based approach therefore enhances aid effectiveness by providing a common and objective framework for bilateral and multilateral donors and aid recipients for assessing performance and legitimacy.
40. Bilateral and multilateral agencies working on human rights and development have reported that:<sup>39</sup>

Human rights offer a coherent normative framework which can guide development assistance. It puts the human person at the centre of the analysis, linked to State obligations and citizens' entitlements. It is a universal framework into which states enter freely, with a jurisprudence to

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<sup>36</sup> United Nations Development Programme, *Human Development Report 2000*, at 19 (2001)

<sup>37</sup> Piron and O'Neil, *Integrating Human Rights into Development: A synthesis of donor approaches and experiences* (2005), available at: <http://www.odi.org.uk/resources/download/3364-full-report.pdf>

<sup>38</sup> Marta Foresti, David Booth and Tammie O'Neill (Overseas Development Institute), *Aid Effectiveness and Human Rights: Strengthening the Implementation of the Paris Declaration* (2006), available at <http://www.odi.org.uk/resources/download/1538.pdf>

<sup>39</sup> Piron and O'Neil, *Integrating Human Rights into Development: A synthesis of donor approaches and experiences* (September 2005), available at: <http://www.odi.org.uk/resources/download/3364-full-report.pdf>

support decision making. Its grounding in a consensual global legal regime creates a normative legitimacy and consistency which is not always found in development initiatives...

#### **4.3 Human rights provide an integrated and strategic framework and promote policy coherence**

41. A human rights-based approach could also help address the shortcomings of Australia's aid program as identified by the Office of Development Effectiveness' Annual Review of Development Effectiveness 2009. This review highlighted how 'a lack of an overarching strategy' impedes the ability of the ODE to adequately assess the performance of Australia's aid program.<sup>40</sup> It also called for a greater understanding of the 'institutional context' in which aid is delivered and a 'whole-of-government strategy' for engaging with aid recipient countries at the country or regional levels.<sup>41</sup>
42. Making human rights a core part of our aid and development program would constitute a concrete advancement of the Government's April 2010 commitment to 'improve the protection and promotion of human rights within our region and around the world'.<sup>42</sup> It would also give substance to the Government's pledge, in the context of our UN Security Council candidacy for 2013-14, to act as a 'principled advocate of human rights for all'.<sup>43</sup>

#### **4.4 Human rights contribute to good governance**

43. The World Bank defines governance as 'the manner in which power is exercised in the management of a country's economic and social resources for development'.<sup>44</sup> A growing consensus in the international development community has recognised that good governance is a precondition for economic and social development.<sup>45</sup> Good governance is conditioned upon accountability, transparency and the rule of law.<sup>46</sup>
44. Human rights standards and accountability frameworks contribute to good governance by creating a conceptual line of accountability between citizens (rights-holders) and states (duty-bearers).<sup>47</sup> Good governance is also closely linked with particular rights included in the International Convention on Civil and Political Rights (**ICCPR**), including Article 14 which deals

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<sup>40</sup> Office of Development Effectiveness, "Annual Review of Development Effectiveness 2009", available at <http://www.ode.ausaid.gov.au/news/news19.html>, p 58. pp 2, 18, 67.

<sup>41</sup> Office of Development Effectiveness, "Annual Review of Development Effectiveness 2009", available at <http://www.ode.ausaid.gov.au/news/news19.html>, p 57.

<sup>42</sup> Australian Government, *Australia's Human Rights Framework* (April 2010).

<sup>43</sup> Department of Foreign Affairs and Trade, *Australia: United Nations Security Council Candidate 2013-14*.

<sup>44</sup> Herbert V. Morais (Former Bank Chief Counsel), 'The Globalization of Human Rights Law and the Role of International Financial Institutions in Promoting Human Rights' (2000) 33 *George Washington International Law Review* 71, 93.

<sup>45</sup> *Ibid* 94.

<sup>46</sup> Canan Gunduz, 'Human Rights and Development: The World Bank's Need for a Consistent Approach' (Working Paper 04-49, Development Studies Institute, 2004) 17.

<sup>47</sup> GOVNET Report, p. 29-35.

with equality before the law, Article 19 with freedom of expression and Article 25 with the right to take part in public affairs.<sup>48</sup>

45. Human rights principles require policies and programs that encourage participation. The participation of communities, including poor and vulnerable populations, contributes to further transparency, accountability and good governance. The accountability mechanisms administered by UN human rights treaty bodies and the Human Rights Council also provide a well-established, coherent accountability framework.

#### **4.5 Human rights contribute to poverty reduction**

46. The effective protection and promotion of human rights can lead to the social inclusion, meaningful participation and empowerment of people in developing countries.<sup>49</sup>
47. The World Bank's *Voices of the Poor* study surveyed over 60,000 poor women and men from 60 countries and found that poverty is not only a lack of wealth and material goods, it is a state of disempowerment and exclusion.<sup>50</sup>
48. Human rights provide an analytical framework that can contribute to poverty reduction by identifying and addressing the root causes and characteristics of poverty, including power relations.<sup>51</sup> This approach also strengthens the capacity of the poor to claim their rights and institutionalises processes that facilitate their participation can assist in poverty reduction.<sup>52</sup>

#### **4.6 Human rights promote sustainable and holistic development programs**

49. Human rights-based approaches recognise the problems inherent in development programs that aim to 'fill in capacity gaps' in service delivery or direct advocacy. Case studies of human rights-based approaches have shown that:<sup>53</sup>

such an approach helps donors and NGOs understand the need to move away from direct delivery and work at the level of the overall legal and policy framework, institutions and programs. As a result the approach is generally considered more sustainable, as it requires capacity to be built beyond NGO interventions.

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<sup>48</sup> *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, U.N. Doc. A/6316 (1966) (entered into force March 23 1976).

<sup>49</sup> See generally, Amartya Sen, *Development as Freedom* (1999) 49, 87, 90, 144; UN OHCHR, *Human Rights and Poverty Reduction: A Conceptual Framework* (2004); UN OHCHR, *Draft Guidelines: A Human Rights Approach to Poverty Reduction Strategies* (2002).

<sup>50</sup> D. Narayan and others, eds., *Voices of the Poor: Can Anyone Hear Us?* (2000); D. Narayan and others, eds., *Voices of the Poor: Crying Out for Change* (2000); and D. Narayan and P. Petesch, eds., *Voices of the Poor: From Many Lands* (2002). See discussion in Office of the United Nations High Commissioner for Human Rights, *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation* (2006), p.9.

<sup>51</sup> GOVNET Report, p.30-31.

<sup>52</sup> Office of the United Nations High Commissioner for Human Rights, *Frequently Asked Questions on a Human Rights-based approach to Development* (2006), available at <http://www.ohchr.org/Documents/Publications/FAQen.pdf>. See also OHCHR, *Human Rights and Poverty Reduction: A Conceptual Framework* (2004).

<sup>53</sup> GOVNET Report, p.32.

50. The principles of interrelatedness and interdependence inherent in the international human rights framework also promote more effective aid and development programming by encouraging multi-sectoral programming and the development of new partnerships.<sup>54</sup>

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<sup>54</sup> GOVNET Report, p. 32.