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Human Rights

The huge and widening gap between the poorer and wealthier nations of the world and between rich and poor people within nations, which result in deprivation of basic human rights for more than half the world's population, constitutes a denial of natural justice and is a continuing threat to world peace.

— ACFOA 1966c, p. 1

The promotion of human rights has underpinned ACFID's work over its 50 years. From its first standing policy of 1966 (excerpt quoted above) to its work on the self-determination of peoples – whether it be in the context of apartheid in South Africa, the decolonisation and invasion of East Timor, or the isolation of Cambodia and Vietnam by the West in the 1980s – the advocacy work of ACFID has always been couched in the language of people realising not only their civil and political rights but also their economic, social and cultural rights. At the 1971 ACFID Council, Governor-General Sir Paul Hasluck in opening the Council noted that 'you may have to demonstrate clearly that it is to Australia's interest both for posterity and for peace to have a different pattern of economic relationships [with developing countries] from what we have now' (ACFOA 1971a, p. 4). These were interpreted as words of encouragement for supporting economic and social rights coming from a former foreign minister in the conservative Menzies government. By the 2000s the rights work of ACFID had moved to a more direct development focus, building on the Declaration of the Right to Development and focusing on the idea of a rights-based approach to development. This latter shift was a response to the more instrumentalist approaches to development, which have become the norm in many development circles and were epitomised by the World Bank's damaging structural adjustment programs of the 1980s and 1990s.

A focus on human rights moved NGOs away from more simplistic notions of charity and working just to meet the basic human needs of aid recipients to the notion that 'needs can be met out of charitable intentions, but rights are based on legal obligations' (Cornwall and Nyamu-Musembi 2004, p. 1417). The strength of a human rights framework is that it links the donor (government or NGO) to the recipient NGO, recipient government, and recipient communities and individuals in a network of obligations and responsibilities which traditional

aid programs do not do (Manzo 2003; Cornwall and Nyamu-Musembi 2004; Uvin 2004; Ensor and Gready 2005). The other part of human rights work has been to argue for a more just set of international relationships, such as ACFID's support for many of the many struggles for self-determination of the 1960s, 1970s and later.

This chapter will track ACFID's history on human rights, and in particular the important role of the work on East Timor from 1975 until its independence in 1999 and beyond, which drove ACFID's human rights work at the time. First, however, the chapter will set the context for human rights and development and how it emerged from a series of UN meetings and processes.

The origin of rights and development

Human rights approaches to development are based on the central idea of the obligations of states and the international community to ensure that citizens of developing countries can claim their economic, social and cultural rights, together with their civil and political rights, and that all of these are fulfilled. While the 1986 Declaration of the Right to Development was an attempt to bring these two streams of rights together (UNGA 1986) it has been largely ignored by Western donors, in part because of the possible international obligation on the levels of aid that donors may face. The Declaration's passage through the UN at the height of the neoliberal structural adjustment policies in the mid-1980s was no coincidence. The Vienna Declaration and Program of Action of 1993 cemented the Right to Development within the existing human rights framework, and the Millennium Declaration of 2000 brought human rights and development into mainstream development work. While the MDGs seem technocratic and carefully avoid human rights language, they are very much informed by the Millennium Declaration and the Right to Development (Slim 2002; Alston 2005; Schmitz 2012).

The idea of linking human rights with development came out of the anti-colonial struggles of the 1950s and 1960s. Developing countries were both finding their voice and being frustrated by the poor response by Western countries to the lofty ideals of the first Development Decade of high aid volumes to drive high growth rates, neither of which eventuated (Pearson 1969; Tomasevski 1993; Weber 2013). A series of human rights instruments were agreed to by the UN in the 1960s: the Convention on the Elimination of All Forms of Racial Discrimination (CERD) in 1965; the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), both in 1966; and in 1967 the Declaration on the Elimination of Discrimination Against Women (which became CEDAW in 1979).

The 1960s also marked the first Conference on Human Rights held in Tehran in 1968. It was here that developing countries asserted economic development and the freedom of peoples and nations as being the priority (Alston and Robinson 2005; Burke 2008). 'The achievement of lasting progress on the implementation of human rights is dependent on sound and effective national and international policies of economic and social development' (UN 1968, para. 13). This was a major step as it moved the international community away from the rights of the individual, which the West had prioritised, and set in place a binary around human rights. What should be prioritised: civil and political rights or economic, social and cultural rights (Burke 2008)? The adoption of the ICESCR and CERD in 1965 and the Tehran conference of 1968 was seen as representing 'a shift from the Western-inflected concept of individual human rights to a model that emphasized economic development and the collective rights of the nation and its people' (Burke, p. 276). Burke (2008) goes on to note that the West saw it as somewhat ironic, however, that Iran should host the conference with the Shah's reputation for the denial and abuse of the civil and political rights of his people at the time.

This shift in the UN to focus on priorities set by developing countries led to the idea of a New International Economic Order (NIEO) of the early 1970s. It aimed to give developing countries a greater say on the trade and investment activities within their borders and the ability to act as a bloc on common issues to redress what was seen as a new economic colonisation by the West (Bhagwati 1977; Rothstein 1979; Burke 2008). '[I]t was in the act of [these] struggles that rights were articulated and came to form the basis for action for social justice' (Eade 2006, p. 1421). NGOs were very active in supporting the NIEO of the 1970s, with 'critiques of large scale bilateral and multilateral development projects on the basis of who benefits from them and who bears the cost' (Tandon 2000, p. 321), suggesting that the aid programs of the time were part of the economic colonisation of which the developing countries were so wary of. The irony is that by the 2010s much of the ideals of the NIEO had come about with developing countries through the G20 being very much in control, but the economic colonisation was coming from within the developing countries group with the rise of China's aid program being a potent example (see Chapter 10).

The 1970s saw a concerted push from developing countries for the recognition of the human rights principles they championed in the 1960s (economic and social rights), so that by 1972 the idea of a right to development emerged. By 1977 the first draft Declaration of the Right to Development was tabled (Alston and Robinson 2005; Burke 2008; Tadeo 2010), with its emphasis on 'establishing a fair international economic order' (Tadeo 2010, p. 327). The shift was from not only recognising the state's responsibility to its citizens, but also the collective obligation of all states to 'create a just and equitable international environment

for development to occur' (Eade 2006, p. 1422). In the end what came out in the 1970s 'was a bloodied compromise between the industrialised North and the developing South' (Davis 2009, p. 176). As far as the West was concerned: 'Growth dominated development, and civil and political rights dominated human rights' (Alston 1981, p. 63).

The push for a greater focus on economic, social and cultural rights had a major setback in the 1980s as the power of growth-oriented structural adjustment policies in response to the debt crisis pushed by Western donors became dominant, in particular from the World Bank and the International Monetary Fund. This effectively rolled over both the NIEO and the Right to Development in favour of what became known as the Washington Consensus (Davis 2009, Williamson 1993). This 'consensus' was a neoliberal view of the world in which developing country governments reduced their role in society in favour of the market, with privatisation, liberalisation and deregulation being the dominant set of norms.

Rights-based development

The UN processes and debates of the early 1960s lead ACFID to see development from a rights perspective at its formation in 1965, much earlier than government. ACFID was therefore part of the ongoing lobbying and advocacy to gain recognition for developing countries' economic and social rights. Forty years later, in the 2000s, ACFID picked up rights-based development as an approach and urged AusAID to take it up as well (Miller 2010). Even though it was not called rights-based development in the 1960s and 1970s, many of the principles of good development practice of local control and participation advocated for at that time have become part of the rights-based development principles of the 1990s and 2000s (Kindornay et al. 2012).

A focus on participatory development and human rights were common themes of ACFID's magazine the *Development News Digest* through the 1970s and a key focus of the major development education conferences of 1973 and 1978. As a result, the definition of development which came out of the ACFID review of 1979 is clearly couched in rights-based development language:

Development is a process which enlarges the action space for persons and groups in their own societies ... with a common objective the development of peoples and of human potential in a climate of justice, self-determination, participation, and sustainability (ACFOA 1979i).

ACFID and human rights: The early years

In its early years ACFID adopted a set of principles that amounted to a nascent rights-based approach in how human needs and poverty should be responded to, which were about participation, local control, and accountability (ACFOA 1966). It was the humanitarian crises of the time, however, that brought rights to the fore in the context of often violent struggles for the right to self-determination. These shaped how humanitarianism and rights were seen within NGOs more generally, and ACFID in particular. The Biafran crisis of 1967–69 saw NGOs first take an active approach in providing emergency relief independent of government (see Chapter 5). While the ACFID secretariat was not part of the Biafran airlift and associated appeals, its members were and so it was ACFID's first involvement in what Chandler calls 'modern human rights-based solidarity movements' (2001, p. 683). The experience of Biafra and, a couple of years later, Bangladesh pointed to the strong role that NGOs could take in advocating for the rights and social justice issues involved in self-determination struggles.

While the focus on rights was strong throughout the 1970s, with the 1976 ACFID Standing Policy affirming human rights even more clearly than the 1966 policy (ACFOA 1976c), there were tensions within ACFID at the time on how rights were seen and advocated. The recognition and respect of human rights were major themes of the Tasmanian Summer School and led to the formation of the Human Rights Council of Australia in 1978, initially operating out of the ACFID office in Canberra (Curtis 1977; ACFOA 1978b, ACFOA 1998b). While the Harries Report on Australia's relations with the Third World in the late 1970s argued that any discussion of economic rights in an aid context was 'misplaced humanitarianism' (Harries Committee 1979, p. 156), ACFID argued that economic and social rights must be part of the development mix and have a strong focus on self-determination, the main focus of economic rights at the time (ACFOA 1978b; Okolie 1978).

While the right to self-determination was created in the context of decolonisation, it was later taken up in the context of minority and indigenous rights, and this is where ACFID ran into arguments about the sovereignty of the 'governing' state. The main example was East Timor and Indonesia's claims of sovereignty over it (Hannum 2011), but also Eritrea and New Caledonia where ACFID argued the case for self-determination, and South Africa where ACFID argued against apartheid and for the inclusion of the black majority in the political process. In all these cases, ACFID supported local representatives of these movements in Australia to make their case to the Australian government and, more widely, to the United Nations (Rollason 2013).

East Timor

It was the issue of East Timor and its fight for independence that was to be probably the most important and defining part of ACFID's human rights work for more than 25 years (Purcell 2013; Walsh 2014). The East Timor work was at times contentious within ACFID and in its relations with the Australian and Indonesian governments to the point that, even in the 2010s, some Australian NGOs are still not allowed to set up offices in Indonesia as a result of the stance they took on East Timor in the 1970s through to the 1990s. The background to the East Timor crisis was its rapid decolonisation by Portugal in 1974 and the push for early local government elections in March 1975, which led to an unstable coalition and an attempted coup in August 1975. With the pretext of instability on its border, Indonesia invaded East Timor in December 1975 and took the country over in a brutal occupation, which was to take hundreds of thousand lives and continue for the following 25 years (Ramos-Horta 1987; Dunn 2003; Cristalis 2009).

ACFID was one of the first international aid agencies involved and sent a delegation on behalf of Australian NGOs in October 1975 to report on the increasingly dire situation in East Timor (Dunn 1975; ACFOA 1975b; ACFOA 1975i, 1975k). ACFID and its members had been highly supportive of East Timor's independence, and had passed a resolution supporting self-determination, which sparked a protest from Indonesia even prior to the invasion (ACFOA 1975c). After the report of the delegation that visited in October 1975, ACFID launched an appeal which raised enough funds to send a barge with emergency supplies from Darwin to Dili in November on behalf of a number of its members, but notably not the Red Cross (see Chapter 5).

Despite the overwhelming support of ACFID's members over its stance on East Timor (Tiffen et al. 1979), the Red Cross argued that ACFID was taking a political or partisan role and, as a result, withdrew its membership of ACFID but stayed on as an observer. It only rejoined as a full member of ACFID in 2013 (ACFOA 1976b; Sullivan 2013). The questions raised about whether ACFID was partisan, and a view that it had inherited a 'left wing' agenda,¹ led ACFID to be forceful in stating that it was non-partisan, its advocacy was on the basis of human rights and the right to self-determination and, in the case of East Timor, it was not favouring a particular political group (Walsh 2014).

ACFID continued its advocacy on the plight of the East Timorese and provided implicit support for East Timor's self-determination (ACFOA 1979e, 1979f, 1980c, 1981e, 1982b). Following the humanitarian calamity and famine in East

¹ This included accusations from right-wing organisations such as the National Civic Council that ACFID supported communism or had communist sympathies.

Timor of 1977–79 as part of Indonesian actions against the resistance movement (de Acolhimento 2005; Walsh 2012; Robinson 2009), there was a push in 1979 for more Australian government support for East Timor. In their submission to the government at the time, ACFID noted that there was some inconsistency in Australian government policy in cutting aid to Vietnam over its invasion of Cambodia, but not criticising Indonesia's invasion of East Timor, let alone halting aid (ACFOA 1979b). Internationally there was also a polarised view, with Catholic Relief Services of the US still taking a strident anti-communist line and restricting humanitarian aid to East Timor even after it was heavily criticised for channelling US food aid to the South Vietnamese military a decade earlier (Walsh 2014; Flipse 2002; Howell 2014).

The work of ACFID around the Indonesian invasion and subsequent famine was not without its critics. In 1977 ACFID commissioned a report into East Timor in which eminent persons were to conduct hearings from affected people in East Timor and elsewhere, which was to support ACFID's advocacy work (Walsh 2014). The report took nearly three years to complete and was only handed over after much urging from ACFID. The Traille report was surprisingly (at least to ACFID) critical of ACFID's position. The report argued against supporting the right for self-determination. It was supportive of the Indonesian invasion and claimed that the refugees were not strictly speaking refugees but Portuguese citizens. It was also implicitly critical of ACFID's advocacy, arguing that the independent monitoring of aid was an unacceptable political string. Most notably, however, the report made little reference to the famine that had been underway for the previous two years (ACFOA 1980c; *The Canberra Times* 1981). While ACFID felt it could not withhold the release of the report, especially after former prime minister Gough Whitlam called for its release (Whitlam 1981), it did so with a comprehensive rebuttal, particularly around errors of fact. ACFID also argued vigorously that the research was not balanced, particularly in terms of the various points of view, the nature of the evidence sought, and which groups were chosen to be given a hearing (ACFOA 1981e). While it prompted a spirited debate between ACFID and the authors of the report in the letters column of *The Canberra Times* (Whan 1981; Traille 1982; Alston 1981; Rivett, 1981), the Traille report was a complete failure as a way of getting the evidence out of what was actually happening in East Timor (Walsh 2014).

The 1980s and the human rights office

In the 1980s ACFID broadened its human rights work beyond East Timor, and established a human rights office in Melbourne in 1985. While the human rights program was in some sense a strategic response to what was happening in East Timor, for ACFID to have a broader credibility on human rights it had to expand its work beyond East Timor and show that it was not anti-Indonesian

(Walsh 2014). A key element was promoting people-to-people relations, and links were made with human rights organisations and other NGOs in Indonesia through the 1980s. A very good working relationship was established with them and 'in a trial and error sort of way it worked out beautifully' (Walsh 2014).

The office began working on human rights issues around the Sri Lankan conflict, as well as Burma, and to a lesser extent West Papua (ACFOA 1998b). The other important role that the human rights office had was a regular dialogue with the Australian government from 1984. Whether these consultations were a way for government to neutralise NGO voices or not, they did enable an international NGO perspective to be brought to DFAT and prompt the engagement of DFAT in the human rights issues of the day. This was probably helped by having a sympathetic Labor government and a human rights lawyer in the form of Gareth Evans as foreign minister for part of that time.

The human rights office had a chequered life with frequent calls for it to be closed down on the basis of cost or there being more pressing priorities. In 1987 the ACFID executive tried to close down the office as a budget measure, but it was overruled by the ACFID Council, and funds were found to keep it operating. In 1990 there was another review of the human rights program with the result that the office was more directly brought into the structure of ACFID (ACFOA 1998b). The 1993 World Conference on Human Rights in Vienna was a watershed for NGOs in general and ACFID in particular. As part of the preparatory work, human rights NGOs of the region, including ACFID, brought their issues to a preparatory meeting in Bangkok, and from there these issues had a global airing in Vienna (Purcell 2009; Walsh 2014). Vienna also confirmed that all human rights were of equal importance and thus laid the groundwork for rights-based development touched on earlier in this chapter (Kindornay et al. 2012, Davis 2009).

East Timor was also reaching a turning point in the late 1980s and early 1990s, especially following the Dili massacre of 1991. With the increased and more effective Timorese resistance through the 1990s, there was an upsurge of support for East Timor's self-determination (Sherlock 1996; McWilliam 2005; Novais 2007). By the late 1980s Indonesian President Suharto was having trouble maintaining the fiction that all was fine in East Timor, while still not allowing in any Western observers. In 1989 a three-person ACFID delegation visited Dili for a day on the way to another meeting, and met with Bishop Belo, the Catholic Bishop of Dili, to confirm that he was making a public call for self-determination and would appreciate ACFID's support. This opening up of East Timor enabled more people to observe human rights abuses, including the filming of the Dili massacre of 1991, which prompted international public outrage (Novais, 2007) and led to ACFID being banned from Indonesia for a time (Jarret 1994; Walsh 2014).

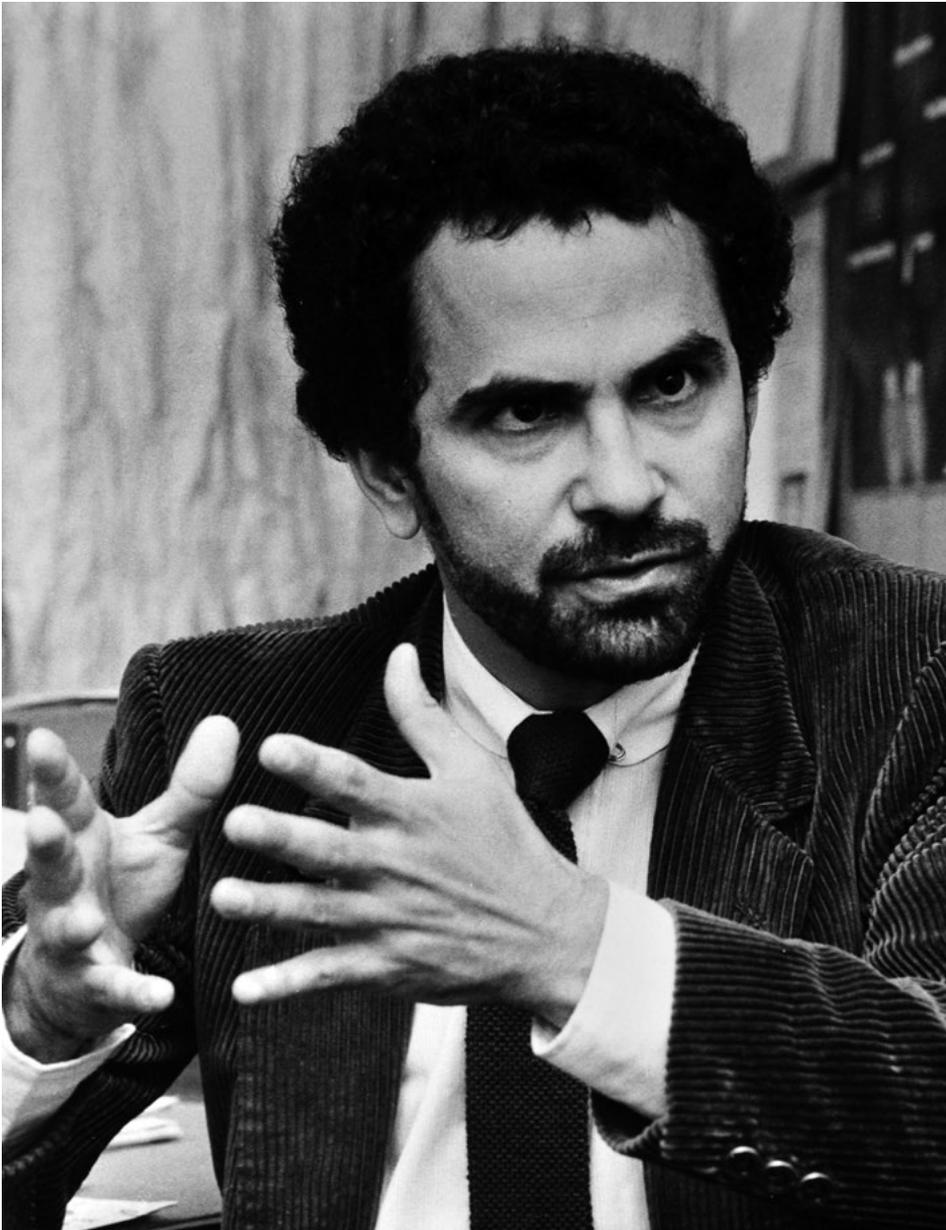


Figure 13 José Ramos-Horta, leader of the East Timorese Independence movement, speaking at ACFID, May 1984.

Source: Fairfax media.

Over the next eight years, the work of ACFID and NGOs more broadly on the situation in East Timor resulted in constant pressure on the Indonesian and Australian governments. After President Suharto resigned in 1998 the way

was open for an independence referendum, which was held in 1999. ACFID had representatives on the Australian official observer mission led by former deputy prime minister Tim Fisher (Schulze 2001; Walsh 2014). While the poll overwhelmingly supported independence, it led to a humanitarian emergency when the Indonesian army and Indonesian-backed militias went on a rampage, destroying much of East Timor's infrastructure. It was only after an armed, but generally non-violent, intervention by a multinational military force led by Australia that the situation was stabilised to enable an interim UN administration to prepare the country for an orderly handover to an East Timorese government in 2002 (Traub 2000; Chopra 2002; Fernandez 2011). Thus ended nearly 25 years of advocacy work by ACFID for the right to self-determination of the people of East Timor.

Aboriginal and Torres Strait Islander land rights

The other important driver of ACFID's human rights work were the Aboriginal land rights struggles of the 1960s through to the 2000s. These struggles resulted in Aboriginal and Torres Strait Islanders' political rights gradually being recognised in a number of laws in Australia in the early 1960s, culminating in the 1967 constitutional amendment removing discriminatory references from the Australian Constitution to enable the Commonwealth government to make laws with regard to Aboriginal and Torres Strait Islanders and overturn any discriminatory state law.² There is still, however, no formal recognition of Aboriginal and Torres Strait Islander peoples in the Australian Constitution.

The gap that remained was in the area of traditional land rights, which would not be recognised until 1993. It had become an international issue as early as the late 1960s, when international NGOs such as the WCC and a number of ACFID members provided grants to Aboriginal organisations in 1969 to fight for their land rights (Hill 1972). The Campaign Against Racial Exploitation was set up in Australia in the early 1970s as an anti-apartheid and anti-racism network with strong links and support from ACFID (*The National Times* Editorial 1975; Hill 1975b; ACFOA 1975a). From the early to mid-1990s ACFID was also very active around Native Title rights following the High Court's Mabo and Wik decisions.³ It was out of some of this work and the support of ACFID that Australians

² The referendum resulted in Clause 127 excluding Aboriginal and Torres Strait Islander people from the census being deleted; and the deletion of discriminatory references to Aboriginal and Torres Strait Islander people in Clause 51, which covers the lawmaking functions of the parliament. The right to vote had already been provided for in federal legislation in 1962 (National Archives of Australia).

³ The Mabo decision (High Court of Australia 1992) confirmed Murray Islander people's rights to their traditional lands; and the Wik decision (High Court of Australia 1996) confirmed Aboriginal peoples' land rights to pastoral leases on mainland Australia.

for Native Title and Reconciliation (ANTaR) was formed. It continues to this day working on reconciliation with a focus on constitutional recognition of Aboriginal and Torres Strait Islanders.

The issue of fighting for Australian Indigenous rights has always had its critics in ACFID, who argued that ACFID be only involved in international social justice issues. Generally, however, a large majority of members have always supported ACFID being involved in Australia's Indigenous issues, and have provided direct assistance themselves (Tiffen et al. 1979; Hubbard 1981; ACFOA 1990c). In the 2000s, this work continues with an ACFID Aboriginal and Torres Strait Islander Working Group, and ACFID's development of a Practice Note for working with Indigenous Australians (ACFID 2014a).

From the Right to Development to rights-based development

Western donors often have trouble with the language of rights, preferring the language of aid which suggests aid is a favour being granted (often in the donor's own interest) rather than an obligation of the international community – the basis of the Right to Development. Some of the key principles of the Right to Development discussed above were taken up at the 1995 World Summit for Social Development at Copenhagen (Hamm 2001; Eyben 2006). While the Right to Development had at best a lukewarm acceptance by the donor community (afraid their aid budgets may be locked in), it did provide the basis of the move to rights-based development which has since been picked up, for a time at least, by UN agencies such as UNDP and by NGOs in the early 2000s (Chapman et al. 2009; Kindornay et al. 2012).

While bilateral donors may accept there is a Right to Development, this is aspirational at best and is not about a right to development assistance or in any sense a legal obligation: 'Donor countries do not wish to be legally obliged to provide aid' (Piron 2005, p. 20). This was in part a reason for the move to rights-based development as an alternative (Davis 2009; Tadeg 2010). However, even when taking this path aid recipients must shift, in the eyes of the donor, from being the subject of development to being citizens who participate in the process of a development assistance exchange. In such an exchange there are necessary processes to ensure justice, participation, empowerment and agency (Davis 2009).

The idea of rights-based development emerged in the late 1990s as an attempt to implement some of the principles of the Right to Development. Some of these principles have been around since the 1960s (Hudson 2002; Schmitz 2012).

Perhaps 'it is "old development" wine served up in new, rights-based bottles' (Kindornay et al. 2012, p. 479). The change to a rights discourse in the 1990s, however, provided an important antidote to the one-size-fits-all neoliberal structural adjustment policies that were more or less forced upon developing countries in the 1980s,⁴ and the consequent loss of the once strident voice of developing countries. The language of rights provided some space to argue the case for the poor, not in terms of being a beneficiary of donor largesse but from the standpoint that the right to agreed basic standards of service and access is universal, and there are obligations on us all to ensure these are provided. This, however, points to a weakness of rights-based development and there is the assumption that rights-based approaches will favour the poor and marginalised, which may not be always the case. As Philip Alston points out: 'the consequences of highlighting rights will depend very significantly on the power relations that exist within the society or the group [and] the promotion of a rights approach ... could well reinforce the rights of those who already have power' (Alston 2005, p. 805). Another problem is what seems to be a disjunction between principle and practice:

the right to development defines development by international human rights and their accompanying obligations, [while] donors tend to see 'rights-based approaches' as offering new analytical and program tools for assisting poverty alleviation within existing development assistance structures (Davis 2009, p. 179).

The implication of this argument was that there are no obligations attached to these rights. There is also a conflict of rights-based approaches with what has been called 'new managerialism', whereby results-based management and value-for-money principles are central to recent approaches to aid delivery. As Hudson (2002) put it: 'While civil society groups have made rights-based approaches a key priority in their own discussions of aid effectiveness, donor and partner country responses have been lukewarm' (p. 497). The effect was that rights-based approaches have struggled to gain traction.

Rights-based approaches, optimistic as they are, also challenge the view of many developing countries, which have argued since the 1960s that sacrifices of civil and political rights were required to achieve rapid development and advances in economic, social and cultural rights. There was a point in the 1970s when some commentators, and even governments at the time, regarded authoritarian regimes as useful or possibly essential for development, as evidenced by the successes of Malaysia, Taiwan, Singapore and South Korea. In the 1980s,

⁴ Enormous capital flows into the United States following the oil shocks of the 1970s had the effect of dramatically reducing the availability of capital to poor and middle-income countries, thus forcing them to the IMF and World Bank for credit (Arrighi 2010).

arguments for the suppression of civil and political rights continued to receive a sympathetic airing, as they may have to be sacrificed for the realisation of economic and social rights, which was central to the Asian values debate of the 1980s and 1990s (Espiritu 1986; Mauzy 1997; Korey 2001; Kraft 2001). While the West preferred international law to focus on civil and political rights, the rise of China as a major donor in the 2000s has now provided an option for those developing countries not agreeing with human rights conditionality from the West (Donnelly 1989; Kjøllesdal and Welle-Strand 2010; Shepherd Jr. and Nanda 1985).

By the early 1980s there was a more detailed examination of economic, social and cultural rights, with an associated shift in thinking from economic development to human development. This shift was in response to the top-down development policies at the time and the harmful effects they were having on local communities (Alston 1981; International Commission of Jurists 1981). In response to these debates, some official donors were arguing for a middle ground and ‘to “civilise” global capital via a rights-based development approach’ (Davis 2009, p. 174). ACFID also made these links to development and moved from advocacy for self-determination of the 1970s and 1980s to seeing basic human needs as a right (Rollason 1987). This was a forerunner of the process through the 1990s that led to the development of the Millennium Development Goals. Bill Hayden, the foreign minister at the time, labelled these arguments as a ‘new type of imperialism’ (quoted in Rollason 1987), which was a little surprising given that it was developing countries themselves that were making these links, not Western NGOs as Hayden seemed to be suggesting.

While the Right to Development makes clear links to economic and social rights, such as the right to food, health care, education, and the civil and political right to participation and the like, they were never seen as obligatory, simply because it is very hard to agree on a specific standard affordable to all. Davis (2009) commented that ‘it pushes states to focus on substantive basic needs and social justice’ (p. 175). These were second- and third-generation rights,⁵ and for this reason developing countries tended to see these as bargaining chips with the West for more aid to counter the ill effects of globalisation and to counter accusations of poor civil and political rights in developing countries. Tadeg (2010) pointed out that the ‘danger posed by globalisation to existing

5 First-generation human rights deal essentially with liberty and participation in political life. They are fundamentally civil and political in nature and serve to protect the individual from excesses of the state; second-generation human rights are related to equality, and guarantee different members of the citizenry equal conditions and treatment. The term ‘third-generation human rights’ includes group and collective rights, such as the right to self-determination; the right to economic and social development; the right to peace; the right to a healthy environment; and the right to intergenerational equity.

human rights structures ... renders individual states, acting alone, unable to satisfy the obligations imposed by international human rights instruments' (p. 326).

The UN moved this process along following the Social Development Summit when the Secretary-General in 1997 mandated that human rights were to be mainstreamed in all UN programs. The UN human rights office produced a Common Understanding to guide agencies in rights-based approaches (UNDG 2003). In its most basic form a rights-based approach puts human dignity at the centre and spells out the rights of people and the obligations of government and others to assist in meeting those rights. The guide also outlined the mechanisms of participation and accountability to help the poor and marginalised claim their rights and hold those obliged to meet those rights to account (Winter 2009; Lundy and McEvoy 2012). The idea was to 'frame poverty in the language of international human rights standards and transform passive recipients of aid into empowered rights-holders' (Schmitz 2012, p. 525).

ACFID actively promoted rights-based development through the 2000s. In 2009 it undertook a major study into how Australian NGOs realised rights in their work, and from that developed a program to strengthen members in their human rights work. This resulted in a Practice Note being developed spelling out what a rights-based approach might look like for ACFID members, some of the principles that underpin it, and some ways to assess if it is effective (Winter 2009; ACFID 2010b; Law et al. 2012).

Human rights in the 2000s

The progress of human rights through the 2000s has been mixed. While The Millennium Declaration has its basis in human rights, the MDGs that emerged are more instrumental in their nature. Kuruvilla et al. (2012) stated that although 'human rights and the MDGs are clearly linked and constitute shared global commitments, in practice there is surprisingly little that connects them' (p. 148). For Philip Alston (2005) the MDGs and human rights were seen as 'ships passing in the night' (p. 755), ignoring the broad social, economic and political structures which led to rights being denied. After a push for broader recognition and respect for human rights in the early 2000s, the gloss had faded by the 2010s. Despite these instrumental approaches to depoliticising rights-based development (such as the MDGs) it still seems to be on the wane. At the Busan DAC conference in December 2011 'emerging powers of the South [set] the agenda to one that is no longer the people centred and participatory development approach ... that the DAC played such an important role in creating [in 1996]' (Eyben 2013, p. 89). The rise of Southern economic and

political powers like China and the rest of the BRICS⁶ have moved the global development agenda away from rights towards a more clearly economic growth focus within the sovereign state, 'claiming rights is a political process and ... rights are often negated and denied in the first place by structural inequalities and dominant power relations', which are largely determined by the sovereign state (Ako et al. 2013, p. 49).

The implications of rights-based development also dampened NGO enthusiasm, due mainly to the burden on partners to meet their obligations and the difficulty in engaging in national advocacy to hold sovereign governments to account when these governments are hostile to civil society and advocacy. In brief, there has been a lukewarm response from donor and recipient governments alike, in an aid environment which has been moving more sharply to results-based aid schemas (Kindornay et al. 2012; Schmitz 2012). What is emerging is 'an unresolved tension between a principled human rights approach, where rights are seen as non-negotiable, and an instrumental development approach where rights are subject to cost-benefit analysis' (Waldorf 2013, p. 714). If rights-based approaches are taken too literally then agencies can get tangled up in endless discussions about how to approach a particular problem, and which human rights are being dealt with, rather than the broad principles of the approach. The exceptions seem to have been in the area of child rights and disability, where rights-based approaches have made some headway and are increasingly being used. This is in part because there are specific human rights conventions in place, and in part because advocacy about them in most cases is less of a threat to the state and its laws (Whitehead et al. 2011; Lundy and McEvoy 2012; Njelesani et al. 2012; UNICEF 2012; Arts 2013).

While AusAID has generally been unwilling to consider human rights more broadly beyond specialist human rights programs in its aid program, some cracks did emerge. The focus on disability by the Labor government in 2008 resulted in the first direct linking of aid to a human rights convention, and in this way recognised the important processes of rights-based development (Purcell 2009). More broadly, though, despite the Joint Parliamentary Committee on Foreign Affairs, Defence and Trade recommending a rights-based approach in 2010 (JCFADT 2010, p. 134), with numerous submissions supporting it, including a presentation from 17 agency heads, the 2011 review of the aid program explicitly rejected a rights-based approach. The review's main arguments against a rights-based approach was that *inter alia* it would risk placing 'other rights above the poverty objective ... and could open the Australian Government to unpredictable demands' (Hollway et al. 2011, p. 113), which more or less restated concerns

6 Brazil, Russia, India, China and South Africa.

made by AusAID 10 years earlier (AusAID 2001). While these objections are not insurmountable this report and the government response to it, as well as the DAC walking away from it at Busan, effectively closed off debate on the issue.

Conclusion

Respect for human rights has been an important driver of ACFID's work since its founding in 1965, an era when the main human rights conventions were being negotiated and finalised. ACFID being a social development peak body tended to look at human rights as universal, and that recognising economic, social, and cultural rights were necessary for the fulfilment of civil and political rights. As far as ACFID was concerned it was not a matter of generations of rights or a priority of one set of rights over another. The second important focus that ACFID, and NGOs more broadly, took was in support of self-determination as part of the decolonisation process and ending bloody internal conflict. This started with Biafra in 1968 but continued with East Timor, Eritrea and others. In later years ACFID took up the idea of rights-based development as an outcome of the Right to Development, and a way of realising economic, social and cultural rights which had been bogged down in the UN system since the 1970s.

It was the issue of East Timor's self-determination, however, that focused the human rights work of ACFID. Prior to that there was some generalised advocacy on human rights in South Africa and Latin America. The ACFID Tasmanian Summer School had led to the formation of the Human Rights Council of Australia, but it was East Timor that had advanced the issue within ACFID. While some had seen ACFID as partisan in this work, it was a small minority; and over 25 years the work on East Timor brought to the public eye the human rights abuses that occurred, including the devastating famine of 1978–79 and the events surrounding the Dili massacre in 1991. The human rights office set up in 1985 broadened its work beyond East Timor and took up the cause of human rights abuses in Sri Lanka and other countries.

In the 2000s rights work continued with the idea of rights-based development as an approach adopted for a period. In the 2010s the idea of promoting the advancement of international human rights any further has waned, in part due to much stronger nationalistic sentiment combined with the effects of globalisation, increasing inequality, and an increased movement of people internally as well as internationally, all of which have put some pressure on how international conventions are recognised in the context of local sovereignty pressures. The challenge for ACFID in the future will be how to keep the human rights agenda in the public and government eye when national interests of both First and Third World countries are being put ahead of human rights in so many contexts.

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