



HUMAN RIGHTS COUNCIL OF AUSTRALIA

IMPLEMENTING A HUMAN RIGHTS APPROACH TO DEVELOPMENT

VIEWS FROM SOME THAI HUMAN RIGHTS AND DEVELOPMENT NGOS

FORUM ASIA with the Human Rights Council of Australia

REPORT on BANGKOK WORKSHOP

DEVELOPMENT ASSISTANCE FOR REALISING RIGHTS

29 September 1997, International House, Chulalongkhorn University

Summary

This is a brief report of the workshop held in Bangkok comprising Thai development and human rights NGOs and the Human Rights Council of Australia (HRCA) to discuss practical implementation of a human rights way to development.

The report provides an overview of the day's discussions, rather than a full record of proceedings or the contributions of all participants. There was free-flowing discussion that provided valuable critical input into the draft HRCA manual on implementing development policies based on the human rights framework and on the commitment to realise human rights.

Some of the specific points included:

- the experience of the Convention of the Rights of the Child in Thailand provides evidence that human rights (economic, social and cultural as well as civil and political) can be practical development objectives and that governments can be engaged in detailed policy dialogue on sensitive issues. The participatory mechanisms established by the Thai Government in preparing its first report to the UN Committee on the Rights of the Child provide wider lessons for the rights approach.
- attention needs to be given to how rights can be expressed in a way that is real to, and is based in, people's experience to enable participation in establishing human rights objectives at the community level. Human rights often need to be expressed in a non-

confrontational way to allow stakeholders to have a positive dialogue with different levels of government.

- one of the key sources in a human rights analysis is the history of different popular struggles for economic equity and political participation.
- a grievance procedure for stakeholders needs to be accessible to poor participants and be non-bureaucratic in nature.
- the responsibility of donors/governments to translate and provide information on people's rights needs to be clearer.

Outcomes

- Specific inputs into the manual and a better understanding by the authors of some of the central issues around participation.
- Participants felt a meeting between Thai NGOs, Thai Government officials and international donors based on the realisation of human rights - particularly in relation to a specific project - would be possible for early 1998. Forum Asia would be interested in planning such a meeting.
- Pat Walsh of the Australian Council for Overseas Aid Human Rights Office offered to facilitate a meeting with Australian development NGOs and AusAid officials to discuss the rights approach.

Further details of the day's discussions are contained in the remainder of this report.

Objective of Workshop

Forum Asia organised and hosted the workshop in order to broaden Thai NGO input into the discussions Forum Asia has been holding with the Human Rights Council of Australia on how to approach development within a human rights framework in a practical way.

The specific purpose of the workshop was to gain input from Thai human rights and development specialists into the draft HRCA manual for implementing a human rights approach to development assistance. The manual is intended to be a practical guide for official development agencies that have expressed a policy commitment to realising human rights through their development assistance programs.

In judging the practicality of the rights approach and of the draft manual it was important to call on the participants' insights into Thailand's development experience. The question was also raised as to whether it would be possible in the future to have a development dialogue with Thai government officials based on the rights approach.

Summary outline of Workshop and discussion

The workshop was broadly based around the proposed structure of the draft manual which was distributed to the participants prior to the workshop.

Consequently the sessions looked at human rights as development objectives, at participation, at carrying out a human rights analysis as part of a country strategy, and at practical implementation.

Somchai Homlaor, Secretary General of Forum Asia in his welcoming remarks remarked on the relevance to the Thai situation of the research and approach proposed in the draft HRCA manual, particularly as Thailand was itself becoming a donor government within the region. He also commented on how far the project had come since he had first discussed the issues with the Human Rights Council nearly two years ago.

Songphorn Tajaroensuk of Union for Civil Liberty and Associate Secretary-General of Forum Asia opened the workshop and chaired the morning sessions. Songphorn commended the original HRCA report and draft manual and emphasised the timeliness of the work to the situation in Thailand and internationally since:

A new economic crisis has led to a questioning of the past approach to development;

There are new international pressures, related to the economic crisis, to cut back on social spending;

Parliament has voted to adopt a new Constitution recognising the Right to Development and the importance of people's participation and has accepted the proposal to establish a Human Rights Commission;

The world approaches the 50th Anniversary of the adoption of the Universal Declaration of Human Rights;

The Thai government has established a taskforce on human rights education (HRE) as part of the UN Decade on Human Rights Education.

Human rights as development objectives

"This approach is very good. It offers a way around the selectivity of donors and debates on negative conditionality. The experience of the Convention on the Rights of The Child demonstrates that human rights can be development objectives and that dialogue with governments on even sensitive rights issues is possible."

The discussion was led by Dr Kamalinne Pinit Puvadol of Child Rights AsiaNet who delivered a presentation on the experience of Thailand's first report to the UN Committee on the Rights of the Child.

This was a participatory process involving NGOs, children, community representatives and government officials. The official National Youth Bureau established a Committee on the Rights of Children consisting of government officials and NGOs to oversee and coordinate the process.

Despite there being considerable government sensitivities in acknowledging the scale of particular problems it had proved possible to agree to suggested solutions. For example the number of children working as prostitutes is disputed by NGOs who estimate 600,000 children while the Government claims a figure of 20,000, so a separate committee was established to resolve the issue.

There was a broader problem in the lack of reliable data.

Dr Kamalinne emphasised the importance of the Convention's reporting system which looked at laws, policies, government programs and allocation of resources (budgets). The final report had suggested that the Thai government needed to take action in a number of areas - including the lifting of reservations to the Convention and legislative change. Many of the recommendations for action could be seen as development objectives. The reporting process had spread a greater awareness of the rights of children.

Dr Kamalinne and other participants emphasised that a number of the recommendations of the report to the Committee on the Rights of the Child regarding changes to legislation had in fact occurred, including in respect to the right to education. One example cited was recognition in the new Constitution of a child's right to education. Previously in traditional Thai culture children's education has been regarded as a parental responsibility rather than a children's right. In line with the recommendations of the Thai report the number of years of compulsory schooling had been increased and some government reservations (not all) to CROC were being removed.

Attention was drawn to the fact that the new Constitution did not recognise the right to education for children of migrants, refugees or the stateless.

It was also pointed out by a number of participants that implementing the right to education

- had to involve and be responsive to particular communities so that it met their needs,
- had to contribute to realising the right to work and to encompass formal and informal education,
- had to be reflected in the curriculum which should include human rights education (for children and teachers),
- required an end to practices of discrimination (in Thailand school certificates of non Thai-citizens have special stamps that negatively discriminate against the children of migrants),
- and where international donors were involved they had a responsibility to advocate for this.

Participation

"The human rights approach is the latest of the approaches to development. It offers the opportunity to nudge those in power a little bit, allows for a positive dialogue rather than

confrontation on human rights and can raise an awareness and knowledge of human rights among donors. It is a very good way to go, but unless it affects more than the development assistance channelled through NGOs it will fail."

The discussion was led by Pisit Charnsnoh of YADFON who has many years of experience in the north-east and south of Thailand in ensuring that people can participate in discussions and decisions about their development. In recent years his work has been with the small fishing communities of the Andaman Sea in helping them to regain greater control over their lives and their futures, including through changing legislation and government policy and practice at the provincial government level.

He pointed out that communities had many traditional ways of learning and analysing issues and that this analysis cannot be based on abstract issues or ideas but on the real problems affecting life and livelihood.

The fishing communities had identified protection of the endangered Dugong as the issue that would enable them to build a wide coalition of support and engage the government in dialogue. This had been very successful and had led the government to establish a preservation zone that also benefitted the interests, and respected the rights, of small scale fisherfolk giving them a role in managing natural resources. People's participation had now become institutionalised and the approach reflected in the Eighth National Five-Year Plan.

Pisit cited one recent example where the participation of people had succeeded in influencing development proposals agreed to between the Japanese Development Agency (JICA) and local authorities. The proposal was to build a deep sea port in the coastal city of Trang. Local people were concerned at the impact of the development on their environment including on fish stocks on which they depend for food and income. These concerns were expressed to JICA in the project consultation stage and JICA was persuaded to withdraw its funding of the project.

The issue of how different people, particularly women, participated was discussed. This was largely based on traditional roles but participation of women was growing.

The nature of participation under a human rights approach was also discussed. Some participants felt it would be more difficult to engage government because the language of rights was seen as too confrontational for governments and too abstract for communities. The provision of a clear and accountable basis for participation was one key difference identified with the rights approach.

Human rights analysis as part of a country strategy.

"The international conventions on economic rights and participation are useful to our campaigning"

Somchai Homlaor of Forum Asia introduced this session and looked at some of the existing considerations when trying to apply a human rights analysis to the Thai situation.

Somchai pointed out that the discussion took place against a background of the Parliament having voted the previous weekend for a Constitution that explicitly recognised human rights for the first time in Thai history.

The rights that had been included in the Constitution were the rights that people had been able to identify and agree on through the participatory drafting process. At the same time human rights organisations had reservations as many of the rights in the Constitution applied only to Thai citizens - not to other humans who are refugees, migrants or the stateless.

In analysing the Thai situation to come up with a baseline from which progress could be measured there is the significant problem of a lack of accurate data on many issues in Thai society. There has not been a history of accurate record keeping.

The importance of looking at national perceptions of human rights was also commented on. Somchai made the point that in Thailand people had referred to traditional Thai values of rights, duty and responsibility rather than international documents or experience. The process of rapid economic development had changed this situation and broken down many traditional values and some sectors, organisations and individuals were now referring to international standards much more. Thailand is still in a transitional phase and there is a need to build awareness and understanding of human rights.

It was pointed out that domestic NGOs had found it very useful to look at international instruments and the experiences of other countries in pursuing particular issues e.g. the struggle for maternity rights.

The new Constitution had recognised community rights for the first time and accepted the notion of consequential damage - that some communities had suffered from the development process and were entitled to compensation as a result.

In gathering information for the analysis it is important to refer to the work of local research institutes and academic specialists.

A number of participants also stressed the need to pay close attention to the history of past or current campaigns and struggles of people's movements and NGOs.

Practical implementation.

"This is a good initiative, though I am doubtful about the sincerity of governments in implementing human rights projects."

The manual makes a number of specific recommendations for implementing a country development strategy based on the rights approach.

This session looked at the practicalities of two of the recommendations in this part of the manual - the establishment of a grievance procedure and of an independent monitoring and inspection panel.

Based on the diverse experience of the participants there was broad agreement that these two mechanisms might help address some of the problems they had experienced including:

an emphasis by donors on quantitative rather than qualitative outcomes, development aid used to further commercial interests in the donor country, time delays in funding that affect project planning and outcomes.

The intention of both these mechanisms is to reinforce the contractual nature of the relationship between stakeholders, address the power imbalance there can be between donor and recipients, reinforce the importance of participation and provide some guarantees against arbitrary or unfair behaviour by stakeholders.

"Normally international NGOs try to establish an in-country advisory and monitoring team, it would be useful for official international donors to follow this practice."

The establishment of a trust fund through which donors would contribute their assistance was suggested as an additional or alternative mechanism for ensuring that development assistance reflected development needs rather than the political or economic objectives of the donor country.

The final session of the day took the form of general concluding comments and a brief discussion on the possibility of a dialogue on development between NGOs, Government officials and international donors based on the human rights approach in Thailand.

Participants felt that such a dialogue would be possible, particularly if it were focussed on a specific project. The Thai Taskforce on Human Rights Education was mentioned as a possible forum for such a dialogue.

List of participants

- Somchai Homlaor, Forum Asia
- Songphorn Tajaroensuk, Union for Civil Liberties
- Wanee Thitiprasert, Friends of Women
- Pisit Charmsnoh, Yadfon Association
- Wipaphan Korkeatkachorn, Thai Development Support Committee
- Boonthan Verawongse, Asian Cultural Forum on Development
- Nicola Bullard, Focus on the Global South
- Chanida Chanyapate, Focus on the Global South
- Padee Muthu, IMPECT (Padee offered his apologies for last minute commitments)
- Sarawut Pratoomraj, CCHROT,
- Pat Walsh, ACFOA Human Rights Office
- Dr Kamalinne Pinit Puvadol, Child Rights Asianet
- André Frankovits, HRCA
- Patrick Earle, HRCA

Background Materials for Workshop

- The HRCA Report "The Rights Way to Development"
- Sections 1, 2 and 3 of the Draft Manual "Implementing the Rights Way to Development"
- Extract from UN Manual on Human Rights Reporting

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