

## ECONOMIC INTERESTS AND THE HUMAN RIGHTS CHALLENGE

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The fact that Australia, like America, has neither a colonial past in the Middle East, nor ‘a long-standing cultural attention to Islam,’<sup>1</sup> makes its current discursive characterization of the region and its diverse culture rather ‘abstract’ and ‘second-hand’. Indeed, Australia’s perception of and interaction with the Middle East seems increasingly connected to external factors, most notably the US alliance. This chapter deals with the nature of Australia’s interests in, and engagement with, the Middle East by focussing on the historically dominant theme of trade and highlighting the crucial but missing link, namely, the region’s current debate on political reforms and human rights application. This dimension of the relationship — in the current international political context — is crucial because as some have argued ‘realizing human rights is tantamount to achieving global justice’<sup>2</sup> though the ongoing debate about the dichotomy of universal rights versus local cultural values still poses a significant conceptual obstacle yet to be resolved. Recent research has already suggested a ‘direct correlation between economic performance and the degree of democracy,’<sup>3</sup> a problematic claim that is nevertheless difficult to reject outright.

As this book was in its final editorial stages before going to print, the news about the Australian Wheat Board (AWB) secret payments to Saddam Hussein’s regime started to emerge and quickly developed into an international scandal rarely seen in Australia’s recent diplomatic history<sup>4</sup>. What this ‘scandal’ reveals is that the AWB was willing to deliberately breach UN sanctions against Iraq in order to secure trade contracts. In fact, inquiries set up at the request of the UN named the AWB ‘as the worst example of a company paying kickbacks to Saddam Hussein’s regime under the discredited oil-for-food program’<sup>5</sup>. Though

the government has argued that it had no knowledge of the conduct of the AWB's officials, this incident highlights the need for a more consistent and transparent approach to trade negotiations that does not ignore international obligations. It also illustrates that linking trade policy to wider socio-political objectives especially human rights would ensure an effective foreign policy agenda that reflects Australia's attachment to the universality of human rights.

The chapter starts by outlining some trends in the economic relationship between Australia and key Middle Eastern states and the importance of linking economic interests to wider socio-political objectives. It aims to place the economic bilateral relationship within its broader social and political contexts arguing that Australia's widening of its strategic sphere of engagement with the region by incorporating a consistent position on human rights issues would be strategically beneficial in the long term. The discussion is set out in two parts: the first reflects on the scope and nature of Australia's current economic relationships with the Middle East, and the second explores its approaches and responses (or lack of) to local political issues such as human rights debates at both the government and non-government levels.

Given that Australia's present involvement in the Middle East has come to be driven by its military alliance with the US, it is worth reflecting on current strategic thinking in the US on key economic and political imperatives in the region. In the wake of 9/11, US Trade Representative Robert B. Zoellick indicated that to fight terrorism there needs to be 'prosperity and democracy throughout the world,'<sup>6</sup> but more urgently in the Middle East. This agenda, reflected in the idea of a Middle East Free Trade Area, is driven by an assumption that 'stagnant growth, [and] falling income' in the region would likely lead to 'political tension and rising appeal for religious extremists.'<sup>7</sup> Similar concerns were articulated in the 9/11 Commission Report which included a recommendation for 'a comprehensive US strategy to counter terrorism [which] should include economic policies that encourage development, more open societies and opportunities for people to improve the lives of their families and to enhance the prospects for their children's future.'<sup>8</sup> Therefore, bringing local political issues such as democratization and human rights within the ambit of economic engagement can position Australia's foreign policy in the Middle East region within a wider international framework that increasingly emphasises the interconnectedness of economic policies and long term political stability.

In the case of Australia, there are additional reasons for linking human rights to foreign policy objectives in the Middle East, including the desirable outcomes of improved human rights practice and intra-state stability. Another compelling reason is that an 'Australian concern for regional human rights infringements lends weight to an "honest broker" self-image [that] can only lead to a strengthening of longer-term regional relations'<sup>9</sup>. The linking of the human rights question to the perceived national interest embodied in the trade relationship can potentially be anchored in the fact that Australia has consistently argued for a 'universality' of human rights that 'transcend[s] international political boundaries.'<sup>10</sup> The claim of the universality of human rights has been dismissed 'because it is allegedly western, elitist and interventionist'<sup>11</sup> and in the long term might bring about the standardization of other cultures. Notwithstanding the conceptual merit of this argument, even a minimalist approach to promoting human rights in the Middle East might be conducive to nurturing human agency and dignity, two necessary conditions that would transcend cultural relativism. We will begin by analysing Australia's emphasis on the trade agenda in its relationships with key players in the Middle East and show that even within this narrowly defined trade agenda, the local cultural and social variables have been predominantly ignored.

#### **Trends in the Economic Relationship between Australia and the Middle East**

The Middle East is 'an economically diverse region that includes countries with a common heritage, at various stages of economic development, and with vastly different natural resource endowments.'<sup>12</sup> However, Australia's trade policy towards the region has failed to engage with this diversity and the significant changes which have occurred in Middle Eastern economies in recent decades. It appears that the Australian trade approach to the Middle East at the level of government policy and company practice continues to make crucial strategic choices in something of a research vacuum. This region receives little academic attention in Australia, apart from the rather standard policy briefings produced by DFAT (the Department of Foreign Affairs and Trade) and related bodies such as Austrade.

International business research acknowledges the importance of socio-cultural understanding as a basis for effective economic engagement. Trade negotiations and market entry strategies are highly complex processes and are often affected by a host of local factors, such

as political risk, investment risk, host government requirements and the expectations of foreign companies. Consideration of these elements in trade relationships can powerfully influence market entry and expansion decisions, and the choice of appropriate communication strategies and modes. However, as crucial as these factors are, a missing link remains: that is, a more sophisticated cultural understanding of the region in order to better understand the key issues influencing outcomes in economic interactions with specific countries. In fact, the impact of a proper appreciation of socio-cultural differences on the success of international business operations has been evidenced in many empirical studies<sup>13</sup> which have shown that having a deep understanding of local culture is a strategic advantage in particular in the context of the Middle East.

Arguably, such understanding has been lacking from Australia's trade policies towards the Middle East. Much of the scant work undertaken in the area of Australia's trade relationship with the Middle East was initiated by the Federal Government in the 1990s and was driven by concerns about trade balances. It was only in the late 1990s that Australian trade policy began to acknowledge the importance of the rapidly developing Middle Eastern markets and its increasing diversity beyond energy exports. In 2000, DFAT published *Accessing Middle East Growth: Business Opportunities in the Arabian Peninsula and Iran* which acknowledged the increasing diversification of Middle Eastern economies and the potential for a diverse range of Australian businesses, including the services and manufacturing sectors, to capitalise on these developments.

While this belated policy recognition of the economic diversity of the Middle East should be welcomed, government policy, as reflected in official reports, continues to suffer from a lack of socio-cultural understanding. Official departmental reports aimed at promoting particular products in specific target countries may present a useful amount of factual information, but they fail to provide any analysis of the nature of commercial transactions in the Middle East and the critical role of cultural variables which, if properly investigated and understood, may assist Australian organizations to identify emerging opportunities in the region. In the current world climate, as Barton so clearly demonstrates in Chapter 7 in regards to Australia's relationship with Indonesia, a greater understanding of the Middle East and its traditions is vital. Increased trade with Middle Eastern nations will bring about closer contact with Australian government departments and, equally, with commercial entities in this country.

Given that trade often sets the tone of a nation's overall engagement with a country or region, Australia's trade relationship with the Middle East continues to reflect an unsophisticated understanding. For example, despite significant regional economic growth across the Middle East, two-way trade remains small and continues to be dominated by resource-based products.

In 2000 the Federal Government appointed a Senate Inquiry Committee to prepare a comprehensive review of Australia's relationship with the Middle East. A report on the Committee's findings was published in August 2001, and among its key conclusions was the fact that in trade terms, the Middle East is more important to Australia than *vice versa*. This conclusion is based on the fact that in 1999, the Middle East consumed 4.7 per cent of Australia's total exports, while Australia received only 0.7 per cent of the Middle East's total exports. Though economically this makes for positive trade account figures, it is arguably the case that in the long term and from a political point of view such a structural imbalance would not be in Australia's own interests. This is because trade agreements are increasingly built on two-way relationships that enable both parties a level of access to each other's markets and capital. It is within such contexts that overall trade volumes and market share can consistently increase. The fact is, however, that Australia's exports in 2000 to the 14 countries of the Middle East covered in the Senate Inquiry were comparatively small, totalling AUD \$5.6 billion — the same figure as Australia's exports to Taiwan. In this context the Middle East region represented only 5.1 per cent of Australia's total exports. This figure has fluctuated over the past two decades between a high of 8.2 per cent in 1982 to a low of 2.5 per cent in 1995.<sup>14</sup>

During the 1990s, Australia's aggregate exports to the Arab Peninsula and Iran rose 11 per cent annually, reaching AUD \$3.4 billion. In 2003, Australia's exports to the Middle East region were worth AUD \$5.2 billion having tumbled to just over AUD \$2 billion on the eve of the 1991 Gulf War.<sup>15</sup> According to the Australian Chamber of Commerce and Industry (ACCI), Australia's trade relationship with the Middle East is not in good shape. The general conclusion from its work on the Middle East is that Australia's trade performance — in terms of market share — has deteriorated significantly because of what is referred to as an 'increasing mismatch.'<sup>16</sup> This 'increasing mismatch' is believed to be the result of a growing proportion of Middle East imports devoted to sophisticated manufactured products whereas Australia's exports to the region are still dominated by primary products.

In its submission to the Joint Standing Committee on Foreign Affairs, Defence and Trade, the Australia Arab Chamber of Commerce and Industry (AACCI) pointed out that Australia's overall share of Middle East imports is poor. AACCI argues that in order to understand how well Australia is doing one needs to consider market share rather than total dollar figures. Market share shows how Australia has performed in relation to other suppliers, rather than simply looking at Australia's exports and how they have moved from one year to the next.

Furthermore, Australia's trade relationship with the Middle East continues to be dominated by primary products, despite what has been described by the Joint Standing Committee on Foreign Affairs, Defence and Trade as 'outstanding opportunities' in service sectors such as engineering and consulting, healthcare and pharmaceutical services, education and training, tourism and tourism training, agribusiness, ICT products and services and financial services.<sup>17</sup> Bilateral trade figures with Middle Eastern states, which vary quite significantly from state to state, indicate a very limited range of products or resources exchanged. Bilateral trade with the UAE in 2004 amounted to AUD \$392 million, \$234 million of which was passenger motor vehicles and \$46 million was meat. Imports amounted to \$876 million, with crude petroleum the major component amounting to AUD \$799 million of this figure and \$42 million in liquefied propane and butane.<sup>18</sup> By contrast, in 2004, trade with Jordan — which is almost on a par with the UAE in terms of economic openness<sup>19</sup> — totalled AUD \$95 million, \$74 million of which was live meat exports. Australia, on the other hand, Australia imported just AUD \$1 million of fertilizers from Jordan.<sup>20</sup>

Of particular concern is the failure of Australian trade to diversify into elaborately transformed manufactures and service sectors. While Australia rightfully trumpets the successful export of automobiles to the Middle East, such success continues to be the exception to the rule. Its sluggishness in relation to trade diversification is reflected in the fact that Australia currently attracts less than one per cent of students from the Middle East who undertake higher education courses overseas.

While Australia recognises that it needs to diversify its exports to the Middle East it has yet to develop a sophisticated understanding of exactly what the Middle East is beyond the notion of a region of oil producing states (with which it does have well established, if limited, trade relationships). This is perhaps surprising given the historical relationship between Australia and the Middle East and the very strong grounds which already exist for building a better relationship.

Economically, 'there are significant prospects for increasing two-way trade and investment'<sup>21</sup> between the two regions. In fact, at the most fundamental level, and on a number of grounds, the focus on trade links between Australia and the Middle East makes good sense given their similar environmental attributes and the complementarity of the resources sectors in both regions. Moreover, the Middle East, in spite of the obvious difficulties following the events of 9/11, is still expected to be potentially among the fastest-growing destinations for Australian exports beyond 2002.<sup>22</sup>

Yet, if Australia continues to approach its trade relationship with the Middle East as a one-dimensional issue of market access, it is difficult to imagine how a broader if not deeper connection can be built. Arguably, one of the most effective ways to build a more sophisticated overall engagement with the region (amongst other things), would be to engage local governments and non-government actors on the issue of good governance and human rights as foundations for better socio-cultural understanding. Not only will this approach engender a more stable political environment that is conducive to constructive foreign relations, but it would also reflect the current political obligation on the Australian Government following its participation in the military operations in Afghanistan and Iraq. In the current international climate, human rights promotion will arguably provide a bridge between Australia's twin national interest priorities: the economy and security.<sup>23</sup> The former has been the dominant theme in this relationship while the latter has taken on an added weight since the events of 9/11 and the ensuing 'war on terror'. Perhaps if there is any positive effect to be gained from 9/11 and the subsequent military incursions in the region it is surely the necessity to engage with Middle Eastern states as more than just potential markets and energy sources. Australia, as a member of the 'coalition of the willing' has embarked on a mission of regime change and, consequently, nation-building in Iraq, even if not originally intended. It is within this context that a new emphasis on human rights institutions, civil society and political reforms should be formulated and pursued.

#### **Broadening the Foreign Policy Agenda**

As a liberal secular democracy and a religiously pluralist, multicultural society, Australia has — notwithstanding the much-publicized *Tampa* incident and the mandatory detention of asylum seekers (matters which are detailed in Chapters 4 and 5 of this volume) — an impressive record in promoting human rights, particularly through its aid program. As such

it certainly has the potential to play a significant role, commensurate with its resources and capabilities, in assisting in the emergence of stable and vibrant civil societies, and the establishment of transparent and representative governments in the Middle East.

The current spotlight on the Middle East and the discourse on democratization and political reforms which manifested most vividly in 'people power' in Lebanon, the holding of general elections in Iraq, as well as municipal elections in the Palestinian Territories and Saudi Arabia, has brought to the fore a new set of dynamics in the region, engendering conditions that may be conducive to greater participation for liberal democratic countries such as Australia. Indeed, given the importance of human rights in contributing to regional development, political stability and economic prosperity, Australia could position itself favourably to add impetus to this current momentum by making human rights, and the enhancement of the institutions of civil society, a fundamental component of an integrated, holistic foreign policy. This would encourage a multifaceted relationship with the Middle East, inclusive of trade, finance, education and aid. Its somewhat inconsistent and at times segmented foreign policy would, however, need to develop a better-defined and systematic framework in order to support a sustainable political economy of human rights in the Middle East. Consequently, preserving and securing Australia's interests in the Middle East would entail a re-ordering of its foreign policy priorities there, bringing human rights within its ambit as a basis for promoting its long-term strategic interests.

Although there is a strong case for the inclusion of a human rights agenda in Australian trade and foreign policy toward the Middle East, the effectiveness or otherwise of such a human rights-based engagement would depend largely on the approach that the appropriate Australian Government agencies adopt and pursue. It can be argued that a sophisticated and strategic relationship with the Middle East ought not only be underpinned by the observance of human rights principles, but that such an engagement needs to embody an agenda that is, and is clearly perceived to be, culturally sensitive and receptive to the dynamic intellectual and cultural currents in the Middle East. In order to prevent its human rights-integrated trade from being undercut by critics and sceptics pointing to what is seen to be a national-centrally driven and self-righteously propelled agenda, it is necessary that Australian Government policy-makers avoid being informed by preconceived essentialist views of the Middle East, as found in orientalist discourse on

the region.<sup>24</sup> Too often Middle East political regimes are characterized as inherently authoritarian; its society fractured and backward; its culture as anti-western and exclusive; its religion prone to violence and hatred.<sup>25</sup> Doubtlessly, a detailed critique of the Western portrayal of Middle Eastern societies, politics and cultures is beyond the scope of this chapter. Suffice to briefly point out the political ramifications of such Western constructs for our inquiry, in particular the consequential implication that democracy, accountability and the rule of law are concepts that are supposedly alien to, and incompatible with, Islamic political cultures in the Middle East. There needs to be wider awareness and deeper appreciation in government circles of both the diversity and dynamism of largely Muslim Middle Eastern societies, as well as the evolving multifarious intellectual and political Muslim discourses in the region. One theme that has featured prominently in current scholarly research studies and in political and intellectual debates is the application of human rights and democracy. The animated debates, vigorous discussions and ever-growing literature on these seminal issues, together with the variant points of view with regard to Islam's position on human rights and democracy, are indicative of the variety of readings of these issues as expounded by intellectuals and religious scholars of different ideological hues. This is reflective of the dynamic and mutative character of contemporary Islamic intellectual and political thought.<sup>26</sup>

Therefore, for the integration of human rights in Australia's foreign and trade relations with the Middle East to have the desired tangible impact on the region, it is vital that a re-ordered engagement be seen to be inclusive of and sensitive to the particularistic sensibilities and cultural values of the people of the region. There are genuine mass-based reform movements, and burgeoning civil society groups that have spearheaded the drive for political openness and pluralism in the region.<sup>27</sup> The challenge for Western governments, in general, and that of Australia in particular, is to formulate and pursue a prudent and well-tailored strategy; one that finely balances, on the one hand, the national strategic interests of Australia with the agenda of regional governments, and the needs and aspirations of local citizenry, on the other. Such equilibrium is vital if a genuine multi-faceted engagement is to be successfully pursued.<sup>28</sup>

There is a cogent view, as articulated by some contemporary Muslim intellectuals, such as An-Na'im, that violations or non-observance of human rights principles stem largely from 'a lack or weakness of cultural legitimacy of international standards' in the Middle East.<sup>29</sup> Given the

significance of the cultural factor in determining the extent to which human rights standards are understood and accepted, then as a corollary any serious and effective approach by a western government to enhance the standards of human rights observance necessitates a genuine and thoughtful attempt to understand the nature and influence of culture and religion in Middle Eastern societies. Thus, it is vital that the active support of influential religious and cultural groups in the Middle East is enlisted prior to any kind of foreign involvement.

It has long been acknowledged by the international development community that human rights promotion can support the democratic process in the Middle East and contribute to the long term development of the region. Given the oft-stated nexus between democracy and human rights, there is compelling reason to believe that the democratic reform of the Middle East would, in the long-term, contribute substantially to the reduction of intra-state tension and inter-state conflict in that volatile and vitally important region. The United Nations Human Development Programme (UNDP) recently recognised the urgent need for an acceleration of democratic reforms in the Arab world 'with specific proposals for new regional human rights institutions, robust and freely elected legislatures, and truly independent judiciaries.'<sup>30</sup>

#### **Australia's Involvement in the Development of Human Rights**

Espousing the view that human rights are intrinsically intertwined with global peace and security, the pioneer Western states, including Australia, regarded human rights as universally acceptable standards to uphold justice and mitigate the effects of oppression.<sup>31</sup> International law recognizes four categories of human rights: civil, political, socio-cultural and economic. Human rights advocates affirm that all four categories are inherent, inalienable and universal.<sup>32</sup> Ever since its pivotal involvement in the drafting of the Universal Declaration of Human Rights and its leading role in the UN General Assembly's adoption of the Declaration in 1948, Australia has been instrumental, as recently argued by Irene Khan, Secretary General of Amnesty International, in developing international law, including key treaties and important global institutions such as the International Criminal Court.<sup>33</sup> Australia is a party to six key UN human rights international treaties:

the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Racial

Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention against Torture, and the Convention on the Rights of the Child.<sup>34</sup>

However, due to concerns over compliance procedures, Australia has been a late signatory to these agreements. Furthermore, there have been discrepancies and anomalies in Australia's implementation of these treaties. The fact that it has not fully complied with the criteria that uphold those treaties, can perhaps explain the Foreign Minister Alexander Downer's statement that 'Australian policy, therefore, does not presume to hold other nations to standards that we do not apply to ourselves.'<sup>35</sup> Yet, this view is evidently at odds with the official Australian position on human rights which articulates the case for their universal application as a priority that transcends the political boundaries of nation-states. The implication of this official line is that Australia rejects the view that human rights issues constitute an 'internal matter' of any sovereign state.<sup>36</sup> Despite this, Australia's 'behaviour in international human rights forums,' its controversial approach to asylum seekers, including the issue of indefinite mandatory detention as outlined by Mansouri in Chapter 6, and its resistance to UN calls for transparency and accountability through compliance with the wishes of international monitoring agencies, has seriously compromised its status as a 'good international citizen'.<sup>37</sup> Given that Australia consistently promotes democracy and the rule of law, on the regional and world stages, and readily denounces regimes which have an abysmal human rights record, there is a growing perception of double standards and hypocrisy.<sup>38</sup> Thus, when the Australian Government says that it wants to make the treaty body regime more 'efficient and effective' and to ensure that it has a focus on gross violations of human rights, what it actually means is 'hands off Australia', that the state is the sole arbiter of particular issues, and that its views override the stipulations of those of the treaty bodies.<sup>39</sup> In other words, the Australian Government resorts to national sovereignty as a defence to allegations against Australia of human rights abuses.<sup>40</sup>

Despite Australia's questionable commitment to human rights in relation to its treatment of refugees and asylum seekers, promotion of human rights, including through the incorporation of good governance norms in its development assistance programs, has for some time been a central component of the Australian Government's aid program.<sup>41</sup> The government regards human rights as an integral part of Australia's

foreign policy,<sup>42</sup> and that the ‘real basis for a sustained improvement in human rights’ needed to be through domestic institutional reform initiated from within.<sup>43</sup> For the purpose of promoting and strengthening institution building as an effective means of realizing ‘good governance and the observance of human rights,’ the Australian Government has contributed considerable funds to its development co-operation programs.<sup>44</sup> To illustrate the scope of Australia’s contribution in regard to human rights, Downer cited the cases of Australian-sponsored human rights programs in Southeast and East Asia. Indeed, Australia has had success in founding and funding two key human rights institutions in this region: the Indonesian Human Rights Commission, established by the Keating Labor Government in 1993, and the Asia–Pacific Forum of National Human Rights Institutions by the Howard Government in 1996.<sup>45</sup> In light of Australia’s juridical expertise and experience in human rights institution building and training in Southeast Asia and the Southwest Pacific region, it can be plausibly argued that it has the potential to play an important role in buttressing human rights institutions in the Middle East. Furthermore, given Australia’s role in the occupation of Iraq, it can now be said that Australia has an obligation to participate in the promotion of good governance and human rights as areas in which Australia is well placed to make a strong contribution. After all ‘good governance sound policies, mature institutions and accountable systems-is a basic condition for stability and prosperity in all countries. Open, accountable and transparent institutions and sustainable policies help deliver security, respect for human rights and economic development.’<sup>46</sup>

Yet remarkably, despite its strategic importance in regard to global security and stability, and despite the region’s extensive commercial links and communal ties to Australia, the Middle East does not loom large in official policy documents as a region where Australia needs to promote human rights institutions with a view to engendering vibrant civil societies. Although claims about the centrality of human rights to foreign policy objectives are evident in Australia’s attitude and overall approach to international treaties and agreements, Australia has pursued trade and economic liberalization agreements that seem to demote human rights agendas as secondary to the country’s ‘national interest’.

#### **Human Rights and the National Interest**

Australia, in common with other Western countries whose foreign policies are guided by a realist worldview that subordinates international

law and morality to overarching strategic, economic and security concerns, invokes international human rights pragmatically as ‘an instrument of foreign policy, and then only in [an *ad hoc*] and opportunistic manner.’<sup>47</sup>

The label ‘national interest is a subjective understanding of the common good of society — one that is more compelling and enduring than short-term preferences or sectional demands — to which all foreign policy must ultimately be oriented.’<sup>48</sup> Indeed, ‘for Australia, as for most states, the national interest has invariably been identified as a combination of national security plus national prosperity, with the occasional dash of national values.’<sup>49</sup> How does Australia’s position on human rights and trade compare with those of the Western powers, such as the US and the EU? The US position is that where there is a conflict between national security and economic and strategic interests on the one hand, and the promotion of human rights in foreign policy on the other, it tends to disconnect human rights observance from bilateral and multilateral agreements.<sup>50</sup> By contrast, the EU has made human rights an indispensable component of international relations by coupling their implementation with trade. The prominence of human rights in EU foreign policy is perhaps best illustrated by the workings of the European Court on Human Rights and the European Court of Justice.<sup>51</sup>

In addition to Australia’s increased regional obligations as an occupier in Iraq, there are compelling national interest grounds for deeper human rights engagement with the Middle East. Unquestionably, human rights are inextricably linked to national peace and international security. Observance of human rights inhibits mass refugee flows, contributes to a lessening of tension or reduction of hostility in inter-state relations, and helps in ameliorating the conditions of poverty and inequality, which contribute to social unrest and political violence.<sup>52</sup>

#### **Human Rights and Democratization**

Although the two concepts of human rights and democracy are concomitant, they are not synonymous. Subscribing to a minimalist definition of human rights as the right to life, some theorists advance the somewhat contentious view that although democracy and human rights are, in general, mutually independent, the latter may help bring about the former.<sup>53</sup> The approach of the Howard Government on this issue has been to promote simultaneously transparent representative governance and human rights, with a pronounced focus on Australia’s immediate region.<sup>54</sup>

An emphasis on supporting and promoting democracy in the Middle East certainly appears to have the support of Australians, with 52 per cent responding 'yes' to the Lowy Institute's 2005 Poll when asked: 'Should Australia play an active role in efforts to promote democracy in the Middle East?'.<sup>55</sup> The fact is that democratically elected governments are less prone to wage war against each other, as evidenced by the course of inter-state relations in Europe since the end of the Second World War. For Australia, a politically stable and an economically integrated Middle East would contribute to global security and enhance the prospects for much increased investment and bi-lateral trade.

As has been argued by Foreign Minister Downer, Australia's 'approach to human rights is a characteristically practical one: to bring real improvements and a 'fair go' to the lives of individuals. We pursue this in a number of ways, including through constructive dialogue, focused technical assistance activities, and the building of institutions which can play a major role in strengthening of the rule of law and civil society.'<sup>56</sup> Indeed, Australia has strong credentials regarding the promotion of human rights through its development assistance programs and Australia was widely applauded, for example, in its capacity building programs in East Timor which included a strong human rights dimension, notably regarding the development of East Timor's judicial system. Through its aid schemes to countries such as Papua New Guinea, East Timor and Fiji, the government has enabled the training of judges and magistrates with a view to invigorating the democratic processes and electoral commissions of those countries.<sup>57</sup>

While it is understandable that the focus of Australia's aid program is on its immediate region (and increasingly so given its recent commitments in PNG and the Solomon Islands), conspicuously absent from this statement on human rights in government foreign policy are the geographically distant but increasingly important trading countries in the Middle East.

Given the potential correlation between democratic reform in the Middle East and long term regional stability, it can be argued that it is in Australia's national interest to adopt a similar approach to the one currently pursued in Southeast Asia and the south west Pacific; an approach that is conducive to the advancement of human rights and the strengthening of accountable and transparent government institutions. Similarly, there is a need to engage more closely with governments and NGOs (both secular and Islamist) in the Middle East region with a view to expediting the pace of reform and positively influencing its direction.

Australia's experience in other regions is surely transferable to the Middle East context as it played an instrumental role in establishing such human rights institutions in the Asia-Pacific region. As argued earlier in this chapter, despite the strategic and economic importance of the Middle East as potentially one of Australia's fastest export markets, human rights have been conspicuously absent from government trade policy toward the region. Where human rights are a recurring theme in government policy it is in relation to development aid and training schemes. This approach is perhaps best exemplified by Australian official and private sector involvement in Iraq and the Palestinian territories of Gaza and the West Bank.

According to a report by AusAID, Australia has provided AUD \$11 million to the UN Development Group Iraq Trust Fund to help in the improvement of 'governance, civil society, electoral assistance and support for refugees.'<sup>58</sup> A much larger financial commitment, however, would be required if Australia were to seriously commit to the development of those key sectors. Until December 2004, the Australian Government had pledged over AUD \$126 million to Iraq, the bulk of which was designated for agricultural assistance and the reconstruction of infrastructure.<sup>59</sup> Of the total \$126 million that Australia has assigned to Iraq, the Government earmarked \$6 million as financial support to the UN and Iraqi preparations for the January 2005 elections, heralded as a milestone in its transition to democracy. In addition, part of that financial pledge was reserved for assisting human rights investigations to be undertaken by the newly formed Iraqi Special Tribunal.<sup>60</sup> In May 2005, the Federal Government announced that additional funding to the amount of AUD \$45 million over two years would be provided to assist in the development of democratic government institutions, agriculture and trade reform.<sup>61</sup>

In a recent report on Iraq, Amnesty International targeted the following spheres as key areas in need of reform to ensure the protection of human rights in post-Saddam Iraq. It recommends a comprehensive legal review to be undertaken by a future Iraqi Government to ensure that: its laws conform to international human rights standards; inhuman or degrading punishments are terminated; an independent judiciary is set up to review and reform the criminal justice system; and to protect rights to freedom of expression, assembly and association. Another major area recommended by Amnesty is human rights education and awareness raising, funded by the international community.<sup>62</sup>



Australia is well positioned to provide significant technical assistance in relation to all of these areas, most notably in reforming Iraq's judicial and penal legal systems because it has the relevant expertise in that sphere in its long-established and highly reputed legal system, its independent judiciary, and its modern penal system. It is certainly able to send a commission of experts in penal and international law to review, in conjunction with Iraqi and international jurists, Iraq's legal system and oversee the process of reform.

Similarly, Australia's police force has gained recognition for its role in training and organizing the law enforcement agencies in developing countries in its region, namely East Timor and Papua New Guinea. Australia's Federal Police could also play a critical role in helping to restructure Iraq's embryonic, but beleaguered police force into an efficient and accountable law enforcement agency. In the context of promoting a human rights sensitive law and order enforcement, a number of areas must be addressed, such as raids on homes, searches of private premises, arrest of suspects, detention without charge, torture and ill-treatment of detainees, and the use of disproportionate force.<sup>63</sup> Iraq's police force could undergo a human rights training program in order to ensure that detainees have rights of access to families, lawyers and judges, and that there are mechanisms in place to ensure the proper treatment of detainees, before they are brought to court to face charges.

Crucial to the long-term success of a systematic human rights regime in Iraq is the establishment and maintenance of a vibrant civil society, where there is genuine freedom for the media, political parties and associations, syndicates and clubs, trade and professional unions and pressure groups. Specifically, Australia could contribute to those areas where it has a reputable record, namely: freedom of information, parliamentary protection of rights, equal opportunity law, privacy laws, freedom of expression, right of assembly, press laws, and the status of minorities.

The Palestinians of Gaza, the West Bank and Jerusalem, are another example of the need for better Australian regional engagement on human rights issues. In common with the citizens of Iraq, who voted in national democratic elections in January 2005, the Palestinians of the West Bank and Gaza participated in municipal elections, which took place in three phases, beginning in December 2004 and ending in May 2005. Like the Iraqis, the Palestinians have chosen the path of political reform and democracy, and in its January 2006 elections it delivered a surprise to the West by opting for Hamas, ousting Yasser Arafat's Fatah

party. Palestine's democratisation has so far given rise to embryonic institutions that are predicated, in light of the volatility of the security and political situation in the occupied territories, on fragile foundations, which will be tested as Hamas transforms itself from a movement of resistance into an instrument of governance. Given the pivotal importance of Palestine-Israel to regional stability and global security, it is in Australia's national, strategic and economic interest to play a more constructive role in buttressing these nascent democratic institutions by leading the international community on the integral issue of human rights promotion. In its report, entitled 'Australian Development Co-operation in the Middle East Strategy for 2004-2006', AusAID views the reaching of a lasting Palestinian-Israeli peace settlement as serving Australia's national interest. A peaceful and stable Middle East, the report adds, would strengthen global security and enhance 'Australian trade and investment opportunities.'<sup>64</sup> Crucially, what is missing from the AusAID report, however, is the issue of human rights. It can be argued that Australia's national interest would be best preserved and advanced through a consistent and comprehensive adoption of a human rights approach to trade links, investment schemes and diplomacy in relation to the Palestinian Territories. An integrated human rights — trade approach in Australia's foreign policy would complement and reinforce existing development aid programs and peace-building efforts.

In the Palestinian Territories Australia has, for many years, consistently earmarked up to half of its annual financial allocations as humanitarian aid through the United Nations Relief and Works Agency (Versailles) and, to a lesser extent, via other multilateral agencies such as the World Food Programme (WFP), the United Nations Children's Fund (UNICEF), the International Committee of the Red Cross (ICRC), and Australian NGOs.<sup>65</sup> In comparison with other Western donors, Australia's net contribution is quite negligible. For example, in 2003-2004, AUD \$11.1 million worth of aid flowed to the territories from Australia a figure that increased marginally in 2004-2005 to AUD \$12 million.<sup>66</sup> In contrast, Canada, a Western donor with similar population size and GDP to that of Australia, annually contributes financial humanitarian assistance and developmental aid to Palestinians of the West Bank and Gaza to the amount of CAD \$25 million.<sup>67</sup> In June 2005, the Canadian Government pledged that its annual aid to the Palestinians will increase by \$12 million to a total of \$37 million, with the possibility of a further increase depending on 'progress and reforms'.<sup>68</sup>

### **Promoting Human Rights as a Basis for Effective Middle Eastern Engagement**

There is a serious disconnection between, on the one hand, Australia's economic and trade interests, and, on the other, its foreign and security policy interests in the Middle East. This chapter began by considering Australia's outdated view of the Middle East economy which has informed its regional trade policy, whereby the region is seen essentially as an oil economy and market for Australian primary produce. The chapter then argued that the promotion of human rights in the Middle East should be central to efforts of the international community to promote regional peace, stability and ultimately, prosperity. It was noted that not only does Australia have an obligation to promote human rights in the region as an occupier in Iraq, but it has a national interest to do so, and, furthermore, is well qualified in the area. Closing the circle, this section will highlight the potential role that deeper human rights engagement with the Middle East could play in fostering a more sophisticated understanding of Middle East societies and cultures leading ultimately to a better, more sustainable basis for deeper trade engagement with the region.

It is common for proponents of trade liberalization to draw connections between trade and human rights. The argument is that human rights and political reforms inevitably follow economic and trade liberalization. While even a cursory analysis of the *actual* relationship between trade liberalization and human rights indicates that this is by no means true (consider, for example, Western trade with China), it may be that effective human rights engagement could provide a basis for subsequent trade liberalization.

The Australian Regional Dialogue on Human Rights (ARDHR) was set up by the Australian Government to advance human rights in Asia through co-operative dialogue with senior government officials, with a view to addressing human rights in a number of countries with which Australia has trading ties. Currently Australia engages in annual dialogue with important countries in Asia such as China, and Vietnam. Since 2002 the Australian Government has been engaging in dialogue with one Middle East country, Iran. Although relatively recent, in comparison with China, the dialogue with Iran has resulted in significant progress. A delegation from Iran's Islamic Human Rights Commission embarked on a visit to Australia in 2003 to examine the functions and mechanics of the Australian Human Rights and Equal Opportunity Commission.<sup>69</sup> In comparison with Australia's approach to dialogue to facilitate full

implementation of human rights principles, the EU has, since 2002, followed a consistent policy founded on the principle of conditionality, one that predicates negotiated trade agreement in progress on a number of salient political reforms, notably human rights.<sup>70</sup>

Thus, in view of the increasingly important bi-lateral trade relations between Australia and other states in the region, there is a solid basis for expanding the ARDHR initiative to encompass such key trading countries as Saudi Arabia, Israel, the UAE, Egypt and Iraq. It logically follows that an expanded and strengthened ARDHR would contribute significantly towards the building of a much more durable relationship between Australia and its trading partners in the Middle East.<sup>71</sup>

Since the early 1990s the Human Rights Council of Australia (HRCA), a private sector NGO founded in 1978, has developed a close working relationship with DFAT, with the aim of promoting human rights through the provision of government sponsored aid programs. This was viewed as an effective means of promoting human rights in developing countries. In 1998, the HRCA launched a report entitled 'The Rights Way to Development: A human rights approach to development assistance.' The report argues the case for integrating Australia's development aid policy into the international human rights framework.<sup>72</sup> Among the key recommendations of the report were:

1. Human rights and development must be integrated and systemized;
2. Aid priorities should not depend on donor country interests;
3. Priorities for assistance should be determined by donor human rights obligations and recipient human rights entitlements;
4. The human rights approach involves consultation with the recipient country or agencies; and
5. Greater transparency, accessible information on human rights and aid, and a 'willingness to change.'<sup>73</sup>

In order to lay out the mechanics for the implementation of human rights – contextualized development aid, the Council also published 'The Rights of Way Development Manual' in 1998. The Manual underscored the importance of directly linking development aid to the realization of civil and political rights.<sup>74</sup> This is consistent with Australia's historical preference for constructive dialogue in pursuing foreign policy objectives in particular when these relate to political and social matters.

The expansion of Australian human rights initiatives beyond their current regional emphasis, which does not encompass the Middle East in any significant manner, would complement its rather modest contributions towards aid in Iraq. In the case of the Palestinian Territories, the UN, US, EU and Australia have underscored the importance of linking political democratic reform of the Palestinian National Authority to progress in the Palestine–Israel peace process. Notwithstanding this shortcoming of linking the Peace Process to internal political issues, the Australian government and relevant NGOs need to take a more active role in strengthening the ‘rule of law’ as a crucial step in the process of establishing a democratic and stable Palestinian state.<sup>75</sup>

### Conclusion

‘Human rights are universal principles, but, inspiring as those principles are, none implement themselves. Good governance, effective institutions, adequate material resources and international support are usually what make the difference between noble aspirations and effective realization.’<sup>76</sup> This is especially the case in the Middle East where political and institutional deficiencies still hinder the implementation of human rights. Yet, despite the increasing strategic and economic value of the Middle East to Australia the current overall focus remains narrow.

As outlined at the beginning of this chapter, if Australia is to successfully improve its overall economic relationships with the Middle East, it will first need to develop an understanding of the key cultural and environmental factors that characterise the Middle East.<sup>77</sup> Language constraints and hostile media divert attention, while stereotypes support the view that the Middle East exports oil and is otherwise not actively involved in international trade. In fact, the diversity of imports by Middle Eastern economies has increased significantly as real incomes have risen and the threat of inter-state conflict has subsided.

Should current policies identify mechanisms for increasing economic interactions between Australia and the Middle East, new areas such as tourism, education and cultural ties would make for a more dynamic exchange. The development of a set of policies aimed at promoting overall links between Australia and the Middle East, and the identification of key cultural and political attributes of Middle Eastern societies, will support a more mutually-rewarding engagement.

Taking the Australian Government’s acknowledgement of the importance of human rights principles as a basis for regional peace and

stability, this chapter proceeded to argue that this country’s concerns for human rights violations ought to be evidenced in its foreign and trade policies towards the Middle East. The fact that the Australian Government’s upholding of the universality and indivisibility of human rights has not translated into practice with respect to its bi-lateral trade relations with Middle Eastern states underscore the limited dimensions of its human rights engagement with the region.

Whilst the Australian Government has on a number of occasions affirmed its position on the necessity of linking developmental aid to observance of international human rights by the recipient countries, and is committed to the realization of social, economic, legal and political rights, its foreign policy has neither been equivocal nor consistent on the issue of linking trade to human rights. With the current process of political reform underway at various speeds through this vitally important region, and given the growing economic volume and investment value of the Middle East — particularly in light of the recent resumption of live sheep shipments to the Gulf, and the landmark negotiations on a Free Trade Agreement with the UAE — the time is ripe for the maturation of the Australia–Middle East engagement.