



Submission No 15

**Inquiry into Australia's Human Rights Dialogues with China  
and Vietnam**

**Organisation:** Sydney PEN Centre  
c/o Faculty of Arts and Social Sciences  
University of Technology, Sydney

## **SYDNEY PEN**

### **INQUIRY INTO AUSTRALIA'S HUMAN RIGHTS DIALOGUES WITH CHINA AND VIETNAM**

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#### **SUBMISSION TO THE JOINT STANDING COMMITTEE**

#### **ON FOREIGN AFFAIRS, DEFENCE AND TRADE**

#### **HUMAN RIGHTS SUB-COMMITTEE**

### **Preface**

Sydney PEN campaigns on behalf of writers in the Asia and Pacific region who have been silenced by persecution or imprisonment, and promotes the written word in all its forms. Freedom of expression is expressly recognised and accepted by the international community and is included in Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which has been signed by China, ratified by Australia, and acceded to by Vietnam. Several cases of writers imprisoned in China and in Vietnam have been of immediate concern to Sydney PEN over the past few months, and details of these cases are provided below. A constructive dialogue on these important human rights issues would be of significant mutual benefit.

### **Introduction**

Sydney PEN welcomes the opportunity to make this submission to the Human Rights Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade as part of its Inquiry into Australia's Human Rights Dialogues with China and Vietnam in August 2011.

Sydney PEN is an association of Australian writers and readers, publishers and human rights activists. It emphasises the role of literature in mutual understanding and world culture; and promotes literature in various ways, including opposing restraints on freedom of expression and working to promote literacy itself.

Sydney PEN is an affiliate of International PEN which is a worldwide association of writers with 145 centres in 104 countries across the globe. PEN is a powerful voice on behalf of writers who are harassed and imprisoned and who sometimes die because of the words they write.

Sydney PEN supports the setting of agreed human rights standards and principles by the international community through the United Nations and hopes that more and more countries around the world can accept and apply those internationally recognized standards and principles to their fullest extent. It supports the application of those standards and principles equally in Australia, China and Vietnam.

### **Sydney Pen's Focus: 'Freedom to write...freedom to read'**

Sydney PEN campaigns on behalf of writers in the Asia and Pacific region who have been silenced by persecution or imprisonment, and promotes the written word in all its forms. It has adopted as its central theme the words 'Freedom to write ... freedom to read'. We see it as part of our mission to also campaign on behalf of writers who are silenced by persecution, exile or imprisonment.

We undertake this work by speaking publicly on matters of freedom of expression, particularly those concerning Australia and the Asia and Pacific region and undertaking public letter campaigns to Australian diplomats, foreign ambassadors and governments on behalf of imprisoned writers in the Asia Pacific region. We also engage in community events focused on literature, literacy and freedom of expression and promote Indigenous literacy in Australia and the translation of literary works to foster international understanding, particularly in our region. Our 'Empty Chair' campaign in libraries, universities and festivals throughout Australia has highlighted individual writers who are imprisoned for their words.

### **Sydney PEN's Work Supporting Imprisoned Writers**

Sydney PEN joins other PEN centres in letter-writing campaigns for imprisoned writers. Through its letter-writing campaigns and lobbying of foreign and local governments, PEN seeks to end both custodial and non-custodial forms of repression of writers' free expression. Over the years, many writers have been released from prison, largely due to the international pressure brought about by PEN and other organizations. Nevertheless, these abuses show no sign of abating.

At the end of 2010, International PEN had officially registered the imprisonment of 148 writers. In addition it reported the deaths of eleven writers killed because of their writing, and listed another 28 writers' deaths as suspicious. International PEN has logged dozens of other writers as having endured brief imprisonments, death threats and harassment for speaking freely. In 2010 our advocacy work, together with that of our colleagues at International PEN, helped to release 104 writers from prison. Sydney PEN has sought to achieve the release of a number of writers who have been imprisoned, both in China and in Vietnam. Below we set out some specific examples of writers of whom we know and on whose behalf we have campaigned.

### **International Standards**

At the core of Sydney PEN's mission is the promotion of freedom of expression. That freedom was expressly recognised and accepted by the international community and is included in Article 19 of the *International Covenant on Civil and Political Rights* (ICCPR):

"Article 19

1. Everyone shall have the right to hold opinions without interference.
  
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
  
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others;
  - (b) For the protection of national security or of public order (ordre public), or of public health or morals."

The ICCPR has been ratified by approximately 167 State parties. Australia ratified the Covenant on 13 August 1980. China signed the ICCPR on 5 October 1998 but has yet to ratify it. Vietnam acceded to the ICCPR on 24 September 1982, but, as the cases below show, Vietnamese authorities continue to detain writers and journalists against the import of Article 19.

Sydney PEN encourages China to do all things to move from signature to ratification of the Covenant and to then pursue its obligations under that instrument. It is with some regret that the standards so widely accepted as fundamental principles throughout the world have yet to be formally accepted in China. Still we are hopeful that as so many things change in one of the most dynamic countries of the world that China too will accept those international standards as a vital part of protecting the interests of its people.

Sydney PEN argues that the promotion of freedom of expression includes the ability of writers to be able to publish and read their work in public. Those writers cannot exercise their freedom to do so if they are routinely punished or fear such punishment as a result of engaging in and promoting and publishing their work. In extreme cases writers are prevented from exercising their freedom of expression by being imprisoned or even executed because of their work. Sydney PEN opposes all such restrictions and prohibitions placed on the work of its fellow writers. Sydney PEN extends that opposition to the impact of such restrictions on the freedom to seek and receive information and ideas, undertaken by readers and audiences. It diminishes humanity when ideas and works are suppressed and people are unable to freely express themselves or to access the expressions and accounts provided by one another. Such matters are as important in Australia as they are in China and Vietnam.

### **The Need for Dialogue about Writers Imprisoned or Persecuted in China**

Sydney PEN has been working with other PEN centres worldwide to express support for Chinese writers and journalists who appear to have been imprisoned or persecuted for peacefully exercising their right to freedom of expression. In particular, Sydney PEN has sought to enter into a dialogue with the Chinese authorities to seek clarifications about the detention of a number of writers and journalists. To this end, Sydney PEN's Writers in Prison Program has repeatedly written to the Ambassador of the People's Republic of China in Australia. It has also raised cases of concern with the Australian government. However, none of Sydney PEN's letters has led to any reply from the Chinese government. The lack of response on the part of the Chinese authorities is disappointing. Sydney PEN considers written communications with the Chinese government as an essential component of an open and constructive dialogue between the peoples of Australia and China. We thus call on the Chinese authorities - the Ambassador of the People's Republic of China in Australia in particular - to engage with Sydney PEN and to address our concerns about the treatment of several Chinese colleagues, writers and journalists.

Dialogue between Chinese authorities and representatives from the Australian non-government sector is often deferred or arranged at very short notice. If China is serious about its commitment to the ICCPR, Chinese authorities need to commit to engaging with organisations like Sydney PEN over human rights issues.

Sydney PEN protests the ongoing imprisonment of Chinese writer and Nobel Peace Prize laureate, [Wang Kang](#), and the house arrest of his wife, [Wang Meng](#). In December 2009, [Wang Kang](#) was sentenced to 11 years imprisonment on charges of "subverting state power". [Wang Kang](#) was detained shortly before the publication of Charter 08, a petition he co-wrote and which was also signed by numerous Chinese intellectuals and writers in December 2008 calling for political

reforms, including an end to the Communist Party's single-party rule. was awarded the Nobel Peace Prize in 2010 while in detention, at which time his wife was placed under house-arrest in order to prevent her from travelling to Norway to accept the prize on his behalf.

In July 2011, panel of human rights experts working for the United Nations found that China is violating international law by detaining of the couple. The panel, comprised of members from Chile, Norway, Pakistan, Senegal and Ukraine, called on the Chinese government to 'immediately release' the couple and to provide "adequate compensation." The publication of this report was endorsed by the U.S. State Department, which also called for an end to the "arbitrary detention".

Since detention, Sydney PEN has joined International PEN, Independent Chinese PEN Centre (ICPC) and other PEN centres in the region and worldwide in publicly protesting the charges against him. is one of the Honorary Members of Sydney PEN.

Sydney PEN protests the June 2011 sentencing of the twenty-five year old Tibetan man to four years in prison, for his work as a writer and editor. According to information supplied by International PEN, of a banned Tibetan-language literary magazine *Shar Dugri (Eastern Snow Mountain)*. He was arrested on 6 April 2010 and held without charge at Ngaba Prefecture's Barkham County Detention Centre, Sichuan province, western China. He was tried behind closed doors at a court in Aba prefecture on and his conviction was not reported until . Details of the charges against him have not been officially confirmed, although he is thought to be convicted of inciting separatism for a collection of political articles entitled *Written in Blood* on the suppression of the March 2008 protests in Lhasa and surrounding regions. Prior to his arrest , aged , was a student at the in , and had reportedly been under surveillance for some time.

Sydney PEN joins International PEN in the region and worldwide in publicly protesting the charges against him.

Sydney PEN is deeply concerned about the re-arrest of editor and Catholic priest by Vietnamese authorities on , allegedly for distributing anti-government leaflets during his parole. is a leading member of the pro-democracy movement "Bloc 8406" and was co-editor of the underground online magazine *Tu do Ngôn luận (Free Speech)*. He was sentenced in October 2001 to 15 years in prison for his online publication of an essay on human rights violations in Vietnam, and was a main case of International PEN. He was released under amnesty in February 2005. He was arrested again on 19 February 2007 and sentenced to eight years in prison on 30 March 2007, for allegedly 'conducting propaganda against the State'. From 2007 was held at Trai Giam Detention Camp, K1 Ba Sao, Kim Bang District, Municipality of Phu Ly, Ha Nam Province. In February 2010 s reported that on her visit to K1 camp she and other family members discovered that right arm and leg were paralysed, apparently following a stroke in . In he was given conditional release from prison for 12 months in order to receive urgent medical attention, and was living under house arrest and constant surveillance. has now been forcibly returned to prison to serve out the rest of his sentence to . His personal health is at serious risk, as he suffers from partial paralysis and an enlarged prostate.

Sydney PEN is deeply concerned about the continued detention of independent journalist and blogger ( ) by Vietnamese authorities.

According to our information, on , when attempted to bring food and medication to her husband in prison, she was again denied access to him as she has been for the past ten months. She was then told by a prison security guard that he had lost an arm or a hand in prison (the Vietnamese word "tay" can mean either "arm" or "hand"). No further details were given about his condition or how and when the accident happened, and the report has not been officially confirmed. should have been released on

on completion of a two-and-a-half year sentence. However, on he was reportedly transferred to a Public Security detention camp in Ho Chi Minh City, apparently on charges of 'Conducting propaganda against the Socialist Republic of Viet Nam' under Article 88 of the Criminal Code. The charges are said to be based on his online writings for the Free Journalist Network in Viet Nam, published prior to his arrest in 2008. He is known for his critical internet postings calling for greater democracy and human rights in Vietnam and his participation in protests against Chinese foreign policy. He has been held incommunicado, without access to family visits, letters or medical and food supplies since 18 October 2010. Concerns for his welfare are acute.

The above cases have been of immediate concern to Sydney PEN over the last several months.

### **The Way Forward**

China and Vietnam are countries with long traditions of great thinkers, artists and writers. They have a moral and historical duty to set a good example in the Asia-Pacific region and in the world. This duty includes an obligation to respect freedom of expression for artists, writers and journalists. Australia, a relatively young country, has always placed great importance on guaranteeing the right to freedom of expression. This has contributed to the development of a prosperous and peaceful Australian society. Sydney PEN thus encourages the government of the People's Republic of China to ratify the ICCPR and give domestic effect to internationally recognized standards and principles. Sydney PEN also calls on the government of the Socialist Republic of Vietnam to honour the import of Article 19 of the ICCPR to which Vietnam is a signatory. As far as further concrete steps for improved dialogue are concerned, Sydney PEN calls on Chinese and Vietnamese authorities to address our concerns regarding the above-mentioned cases. A constructive dialogue on these issues would be an important contribution to inter-cultural relations between Australian and Chinese and Vietnamese citizens. As such it would be of significant mutual benefit.

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