

## Reporting requirements and mechanisms

### **Current level of reporting by the Department of Foreign Affairs and Trade**

- 5.1 The Department of Foreign Affairs and Trade (DFAT) reports on Australia's human rights dialogues primarily through its website ([www.dfat.gov.au](http://www.dfat.gov.au)) and its Annual Reports.<sup>1</sup>
- 5.2 At a public hearing, DFAT stated that its Annual Report covers the dialogues, noting:
- I think there are several references in the most recent one. We will cover it. We try to keep the annual report to a reasonable length, but we will certainly cover the dialogues in the annual report.<sup>2</sup>
- 5.3 DFAT advised Joint Standing Committee on Foreign Affairs, Defence and Trade (the Committee) that it also uses a variety of other methods to report on the human rights dialogues to parliament, the public and non-government organisations (NGOs), stating:
- DFAT reports to the Minister for Foreign Affairs on the outcomes of each dialogue. DFAT provides briefings to Parliamentary Committees, individual Parliamentarians and NGOs when requested. Regular Government-NGO human rights consultations also provide an opportunity to debrief a range of human rights NGOs on the dialogues and answer any questions that arise.<sup>3</sup>

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1 Department of Foreign Affairs and Trade, 'Annual Reports', viewed on 14 May 2012, <[http://www.dfat.gov.au/dept/annual\\_reports/index.html](http://www.dfat.gov.au/dept/annual_reports/index.html)>

2 Ms Bird, Department of Foreign Affairs and Trade, *Transcript*, 1 November 2011, p. 9.

3 Department of Foreign Affairs and Trade, *Submission No. 20*, p. 16.

- 5.4 More specifically, DFAT's submission noted that since 2003 it has provided reports on the Australia-China human rights dialogues through a joint press conference and has issued a media release after each round of the Australia-Vietnam human rights dialogue.<sup>4</sup>
- 5.5 However, DFAT was of the view that the Annual Report was not the vehicle for providing a detailed report on Australia's human rights dialogues,<sup>5</sup> but if the Minister made that decision it would follow through on tabling a report on each dialogue.<sup>6</sup>
- 5.6 In regard to strengthening its reporting, DFAT's submission notes that it is seeking to publish transcripts of the joint press conferences on the DFAT website.<sup>7</sup>

### Reporting via the website

- 5.7 In the first half of 2012, the Committee undertook an examination of DFAT's website for references to the dialogues. It found that its website has two web pages where the Department reports on Australia's human rights dialogues.
- 5.8 On the webpage titled *Vietnam Country Brief*, the DFAT website states:
- Australia and Vietnam have held formal human rights talks regularly since 2002. The ninth round of the Australia-Vietnam Human Rights Dialogue took place on 26-27 April 2012 in Hanoi.<sup>8</sup>
- 5.9 The webpage titled *China Country Brief*, states:
- Our approach to managing differences on human rights in China aims at being constructive and is based on dialogue. The Australia-China Human Rights Dialogue is an important forum for frank exchanges on human rights and for identifying areas where Australia can help China implement international human rights standards, including through technical cooperation. The most recent round of our bilateral Human Rights Dialogue took place in Canberra on 9 and 10 February 2009. We raised a wide range of issues including freedom of expression, freedom of religion, treatment of political prisoners and ethnic minorities,

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4 Department of Foreign Affairs and Trade, *Submission No. 20*, p. 16.

5 Ms Stokes, Department of Foreign Affairs and Trade, *Transcript*, 5 March 2012, p. 13.

6 Ms Stokes, Department of Foreign Affairs and Trade, *Transcript*, 5 March 2012, p. 13.

7 Department of Foreign Affairs and Trade, *Submission No. 20*, p. 23.

8 Department of Foreign Affairs and Trade website, 'Vietnam Country Brief', viewed on 8 May 2012, <[http://www.dfat.gov.au/geo/vietnam/vietnam\\_brief.html](http://www.dfat.gov.au/geo/vietnam/vietnam_brief.html)>

Tibet, torture, the death penalty, Falun Gong, re-education through labour, women's and children's rights, and the rights of legal practitioners and civil rights activists. The next round of talks is planned to be held in Beijing in 2010.<sup>9</sup>

- 5.10 At the time of writing this report, media releases were available electronically.
- 5.11 Media releases for nine of Australia's human rights dialogues with China were issued by the then Foreign Minister, the Hon Alexander Downer MP, with the last being issued for the 11<sup>th</sup> round of the Australia-China dialogue on 30 July 2007.<sup>10</sup>
- 5.12 Media releases for eight of Australia's dialogues with Vietnam were released on the Foreign Minister's website and the DFAT website. The latest media release was issued by DFAT on 21 February 2011 for the eighth round of the Australia-Vietnam human rights dialogue.<sup>11</sup>

## Reporting via annual reports

- 5.13 The DFAT *Annual Report 2009-10* contains two references to the human rights dialogues. The section titled *Human Rights* on page 103 provides the following details on the dialogue round that occurred during that reporting period:

We led Australia's delegation to the Australia-Vietnam Human Rights Dialogue, held in Hanoi in December 2009. The dialogue provided Australia and Vietnam the opportunity for frank and constructive discussion about human rights issues, including national approaches to human rights, freedom of expression and association, freedom of religion and belief, criminal justice and the death penalty.<sup>12</sup>

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9 Department of Foreign Affairs and Trade website, 'China Country Brief', viewed on 8 May 2012, <[http://www.dfat.gov.au/geo/china/china\\_brief.html](http://www.dfat.gov.au/geo/china/china_brief.html)>

10 Foreign Minister's website, 'Eleventh Australia-China Human Rights Dialogue', 30 July 2007, viewed on 8 May 2012, <[http://www.foreignminister.gov.au/releases/2007/fa091\\_07.html](http://www.foreignminister.gov.au/releases/2007/fa091_07.html)> The other media releases can be found here: <<http://www.foreignminister.gov.au/releases/archive.html>>

11 Department of Foreign Affairs and Trade website, 'Australia-Vietnam Human Rights Dialogue', viewed on 8 May 2012 <<http://www.dfat.gov.au/media/releases/department/2011/dfat-release-20110221.html>> The other media releases can be found here: <<http://www.foreignminister.gov.au/releases/archive.html>>

12 Department of Foreign Affairs and Trade, *Annual Report 2009-10*, Volume 1, p. 103.

- 5.14 The section titled *Vietnam* on page 40 of the 2009-10 Annual Report also references Australia's human rights dialogue, noting:

...the Australia-Vietnam Human Rights Dialogue [was] held in Hanoi... in December 2009.<sup>13</sup>

- 5.15 DFAT's current *Annual Report 2010-11* contains three references to the dialogues. The section of the *Annual Report 2010-11* titled *Human Rights* on page 102 stated that:

The department led Australian delegations to the Australia-China Human Rights Dialogue in Beijing in December 2010 and the Australia-Vietnam Human Rights Dialogue in Canberra in February 2011. The dialogues facilitated frank exchanges on freedom of expression, association, religious practice, the administration of criminal justice and the death penalty.<sup>14</sup>

- 5.16 The other two references to the dialogues are in the section of DFAT's *Annual Report 2010-11* dealing with individual countries. The section titled *China* on page 30 states:

The department engaged China on human rights through targeted representations and at our annual human rights dialogue.<sup>15</sup>

- 5.17 The section titled *Vietnam* on page 40 states:

The department hosted the Australia-Vietnam Human Rights Dialogue in February...<sup>16</sup>

## **Current level of reporting by AusAID and the Australian Human Rights Commission**

- 5.18 As noted in Chapter two, AusAID manages the Human Rights Technical Cooperation (HRTC) programs which are run by the Australian Human Rights Commission (the Commission). AusAID and the Commission largely provide reports on the HRTC programs through their respective Annual Reports and websites.

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13 Department of Foreign Affairs and Trade, *Annual Report 2009-10*, Volume 1, p. 40.

14 Department of Foreign Affairs and Trade, *Annual Report 2010-11*, Volume 1, p. 102.

15 Department of Foreign Affairs and Trade, *Annual Report 2010-11*, Volume 1, p. 31.

16 Department of Foreign Affairs and Trade, *Annual Report 2010-11*, Volume 1, p. 40.

## Reporting on the Human Rights Technical Cooperation Program

### AusAID

5.19 AusAID's *Annual Report 2009-10* reports on the HRTC, stating that it builds:

...on Australia's human rights dialogues with China and Vietnam through country specific Human Rights Technical Cooperation programs to strengthen the promotion and protection of human rights.<sup>17</sup>

5.20 Additionally, AusAID's website provides a report on the HRTC programs with China and Vietnam.

5.21 The webpage titled *Human Rights Technical Cooperation Program (HRTC)* provides a brief background of the HRTC program with China including its goal; program funding, duration and location; project components; key outcomes and achievements; and some contact details.<sup>18</sup> The webpage also provides a link to the Australia-China HRTC program activities for 2010-11.<sup>19</sup>

5.22 AusAID's website also provides an overview of phases 3 and 4 of the Australia-Vietnam HRTC program, stating:

Australia has supported a technical cooperation program to advance the protection of human rights in Vietnam. The program, now in its fourth phase, helps develop practical strategies to promote human rights in Vietnam, matches the human rights priorities of Vietnamese agencies with relevant experience and expertise, and improves links between Vietnamese and Australian human rights institutions. The program uses workshops, seminars and the development of resources to transfer knowledge and build expertise. Phase 3 focused on improving the delivery of legal aid services to disadvantaged citizens, community education on legal

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17 AusAID, *Annual Report 2009-10*, p. 155.

18 AusAID website, 'Human Rights Technical Cooperation Program', viewed on 8 May 2012 <<http://www.ausaid.gov.au/countries/eastasia/china/projects/pages/hrtc.aspx> >

19 AusAID website, 'Australia-China Human Rights Technical Cooperation Program', viewed on 8 May 2012, <[http://www.ausaid.gov.au/countries/eastasia/china/pages/hrtc\\_program.aspx](http://www.ausaid.gov.au/countries/eastasia/china/pages/hrtc_program.aspx) >

rights and responsibilities, human rights training for lawyers, and raising awareness of women's rights and gender equality.<sup>20</sup>

## Australian Human Rights Commission

- 5.23 The Commission also provides a report on the HRTC programs in its Annual Reports.
- 5.24 The Commission's 2010-11 Annual Report refers to the HRTC program twice under the headings titled *Our Functions* (page six) and *Working in the international arena to improve human rights* (page 42).<sup>21</sup> The Annual Report also dedicates two paragraphs to the aims of the HRTC programs with China and Vietnam.<sup>22</sup>
- 5.25 The Commission's Annual Report for 2009-10 contains several references to the HRTC program under the headings titled *Our Functions* (page 6); *China-Australian human rights technical cooperation program* (page 64) and *Vietnam-Australia human rights technical cooperation program* (page 66).<sup>23</sup> In addition, the 2009-10 report dedicates two pages to each technical cooperation program with information on each program and a list of activities.<sup>24</sup>
- 5.26 The Commission's website refers to the HRTC programs three times under the headings:
- Working with our neighbours: our international role;<sup>25</sup>
  - Glossary;<sup>26</sup> and
  - Inquiry into Australia's Human Rights Dialogues with China and Vietnam.<sup>27</sup>

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20 AusAID website, 'Vietnam Human Rights Technical Cooperation Program Phase 4', viewed on 8 May 2012 <<http://www.usaid.gov/countries/eastasia/vietnam/pages/other-init4.aspx>>

21 Australian Human Rights Commission, *Annual Report 2010-11*, pp. 6, 42.

22 Australian Human Rights Commission, *Annual Report 2010-11*, p. 42.

23 Australian Human Rights Commission, *Annual Report 2009-10*, pp. 6, 64, 66.

24 Australian Human Rights Commission, *Annual Report 2009-10*, pp. 64-66.

25 Australian Human Rights Commission, 'Working with our neighbours: our international role', viewed on 15 May 2012, <<http://www.hreoc.gov.au/about/publications/hreoc21/page8.html>>

26 Australian Human Rights Commission, 'Glossary', viewed on 15 May 2012, <[http://www.hreoc.gov.au/about/publications/annual\\_reports/2010\\_2011/glossary.html](http://www.hreoc.gov.au/about/publications/annual_reports/2010_2011/glossary.html)>

27 Australian Human Rights Commission, 'Inquiry into Australia's Human Rights Dialogues with China and Vietnam', viewed on 15 May 2012, <[http://www.hreoc.gov.au/legal/submissions/2011/201108\\_china\\_vietnam.html](http://www.hreoc.gov.au/legal/submissions/2011/201108_china_vietnam.html)>

## Community perceptions on reporting of the dialogues

5.27 The Committee, as part of its inquiry into *Australia's Human Rights Dialogue Process* held in 2005, also examined how the dialogues were reported. At that time, the Australian Council for International Development (ACFID) noted that DFAT provided a 'minimal history and background' on Australia's human rights dialogues.<sup>28</sup>

5.28 ACFID submitted:

DFAT currently provides a scant summary of the history and background of Australia's human rights dialogues on its web page...<sup>29</sup>

5.29 ACFID added that overall the DFAT summary is unflinching in its praise for Australia's human rights dialogue process and suggested that DFAT provide a sincere and realistic summary of the dialogues, stating:

A more sincere and realistic summary would provide an honest appraisal of the challenges of human rights dialogues, an outline of the expectations of engaging States and a clear articulation of the benchmarks by which Australia will monitor progress.<sup>30</sup>

5.30 ACFID argued Australia's human rights dialogues lack transparency:

Australia's human rights dialogue processes currently lack any public disclosure or discussion on objectives for dialogue outcomes, strategies to achieve established objectives or benchmarks for monitoring progress towards the protection of international human rights standards.<sup>31</sup>

5.31 Several other groups also commented on the perceived lack of transparency.

5.32 The NSW Falun Dafa Association argued that participating agencies need to 'improve accountability and transparency of the dialogue process'.<sup>32</sup>

5.33 The Committee to Protect Vietnamese Workers(CPVW), stated:

Australian public life has a fine tradition of transparency, and this should apply to the Dialogues...<sup>33</sup>

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28 Joint Standing Committee on Foreign Affairs and Trade, *Australia's Human Rights Dialogue Process*, September 2005, Commonwealth of Australia, p. 39.

29 Australian Council for International Development, *Submission No. 14*, p. 12.

30 Australian Council for International Development, *Submission No. 14*, p. 12.

31 Australian Council for International Development, *Submission No. 14*, p. 12.

32 Falun Dafa Association of New South Wales, *Submission No. 16*, p. 12.

- 5.34 The Australian Council of Trade Unions also expressed its concerns about the lack of transparency:

...we are concerned that the process lacks adequate transparency and accountability. At present, there is no means of determining what, if any, meaningful exchanges took place through the dialogue processes...<sup>34</sup>

- 5.35 The Australia Tibet Council (the Council) held the view that the dialogues were not transparent:

The bilateral dialogue process is characterised by its lack of transparency. Partners are more open about claiming positive results, although it is often hard to link these directly to the dialogues.<sup>35</sup>

- 5.36 Ms Dao noted that, despite eight rounds of dialogue with Vietnam so far, there very is little public attention focused on them, stating:

...the content and outcome of these talks do not seem to have been well publicised to the media and as a result do not seem to attract media or public attention.<sup>36</sup>

- 5.37 Civil Liberties Australia (CLA) held the view that DFAT's Annual Report contained scant references to the dialogues.<sup>37</sup>

- 5.38 Furthermore, CLA said that where the Annual Report does deal with human rights and the dialogues, every mention 'is so vague, nebulous and waffly that it is impossible to know whether benchmarks have been met or not'.<sup>38</sup>

- 5.39 The Australian Baha'i Community called for the dialogues to be clearly reported:

...there needs to be clear reporting on the human rights dialogue process, with particular attention to the real outcomes of the dialogues.<sup>39</sup>

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33 Committee to Protect Vietnamese Workers, *Submission No. 18*, p. 8.

34 Australian Council of Trade Unions, *Submission No. 13*, p. 1.

35 Australia Tibet Council, *Submission No. 4*, p. 10.

36 Ms Dao, *Submission No. 2*, p. 1.

37 Civil Liberties Australia, *Submission No. 1*, p. 1.

38 Dr Klugman, *Transcript*, 7 February 2012, p. 2.

39 Australian Baha'i Community, *Submission No. 12*, p. 3.



## Community suggestions for enhanced reporting

5.40 A number of different types of reporting mechanisms were suggested during the inquiry. Broadly, these suggestions fall into several categories: enhanced electronic reporting; reporting via tabled documents; enhanced reporting via annual reports; and broader reporting on human rights practices.

5.41 CLA stated that electronic information on the dialogues should be available to the public:

...that information should be readily available to the public on websites because it is not hidden material; it is mostly already in place in the public arena. So I think a lot of work could be done there.<sup>40</sup>

5.42 The CPVW recommended that DFAT provide a report on the dialogues to the Committee, and that these reports be available on the parliamentary website:

In the interest of transparency, such reports ought to be placed on the parliamentary website and are publicly accessible. If there are texts that need to be blacked out on grounds such as national interest or privacy, DFAT can request such blacking outs, and the decision belongs to Parliament.<sup>41</sup>

5.43 The CPVW added:

To ground reporting in reality and avoid getting off-track, all reporting should answer the key question: Have human rights improved for the peoples, and how?<sup>42</sup>

5.44 ACFID recommended that the human rights dialogues be reported through the Australian Parliament in a tabled document that lists all the proceedings of the dialogues.<sup>43</sup>

5.45 Similarly, the Council suggested tabling a report in parliament:

At the conclusion of each round of the dialogue, the Minister for Foreign Affairs should table a report in the Parliament detailing basic information about the dialogue including participants and items discussed, the position taken by each party in respect to each

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40 Mr Rowlings, Civil Liberties Australia, *Transcript*, 7 February 2012, p. 6.

41 Committee to Protect Vietnamese Workers, *Submission No. 18*, p. 8.

42 Committee to Protect Vietnamese Workers, *Submission No. 18*, p. 9.

43 Australian Council for International Development, *Submission No. 14*, p. 12.

item and any outcomes including concrete initiatives and timelines.<sup>44</sup>

- 5.46 The Council also recommended that the report be submitted to the Committee and available for comment by NGOs:

At the conclusion of each round a report should be submitted to the Human Rights Sub-Committee of the [Joint Standing Committee on Foreign Affairs, Defence and Trade]. The report should be available for comment from relevant NGOs. The findings of the Human Rights Sub-Committee on the progress of the dialogue, along with input from relevant NGOs, should be tabled in Parliament.<sup>45</sup>

- 5.47 The Vietnam Committee on Human Rights held a similar view to the Council, calling for a report to be produced after dialogues and considered by the Committee:

To increase the transparency and accountability of the dialogue process, in addition to the current DFAT media release, a substantial assessment should be made after each round of the dialogue... The assessments should be made public, and discussed openly before the Human Rights Sub-Committee and Australian Parliament. Australia could express satisfaction on progress, but also disappointment when progress is slow or non-existent<sup>46</sup>

- 5.48 Bloc 8406 suggested that DFAT take a broader human rights approach, recommending that DFAT release an annual report on human rights similar to the United States Department of State annual Country Reports on Human Rights Practices.<sup>47</sup>

- 5.49 The Unified Vietnamese Buddhist Congregation of Australia and New Zealand made a similar suggestion:

My immediate suggestion is that DFAT, by request from your committee, makes a special report on human rights conditions in Vietnam and China, or other countries, if you are really keen to see something come forth. It has to become an annual report, then we

44 Australia Tibet Council, *Submission No. 4*, p. 12

45 Australia Tibet Council, *Submission No. 4*, p. 12.

46 Vietnam Committee on Human Rights and Que Me, *Submission No. 19*, p. 4.

47 Dr Kim-Song, Bloc 8406, *Transcript*, 24 February 2012, p. 26. These reports are produced annually by the US Department of State, and provide a comprehensive summary of the human rights situations in 'countries that receive assistance under this part, and ... in all other foreign countries which are members of the United Nations'. US Department of State, 'Human Rights Reports', viewed on 29 March 2012, < <http://www.state.gov/j/drl/rls/hrrpt/>>

can measure and assess whether there is any improvement year after year. Yes, that has happened in the US government but no, we do not have it here. We do not have a special annual report on human right conditions in certain countries, or in the whole world as is the case of the State Department in the US.<sup>48</sup>

5.50 Bloc 8406 also commented that the DFAT Annual Report could include ‘a supplement... on human rights’, similar to the one produced by the US State Department noted above.

5.51 More specifically, the Vietnamese Community in Australia recommended that DFAT provide an annual report of human rights progress in Vietnam:

...that Parliament require the Department of Foreign Affairs and Trade (DFAT) to provide an annual report of human rights progress or otherwise by the SRV at the Budget Session as part of the parliamentary consideration of AusAID development assistance program and such a report be recorded in the Hansard.<sup>49</sup>

## Committee comment

5.52 The overall perception from NGOs, ethnic community groups and individuals is that Australia’s human rights dialogues lack transparency primarily due to a distinct lack of reporting.

5.53 The general community view is that reporting on the human rights dialogues needs to be enhanced.

5.54 As recommended in Chapter four, establishing a human rights web portal will enable these departments and agencies to improve their reporting of human rights, the human rights dialogues and its HRTC programs, as well as increase the transparency of Australia’s efforts to promote and protect human rights.

5.55 The Committee believes that Australia’s bilateral human rights dialogue process and the HRTC programs form an important facet of Australia’s human rights advocacy. The importance of the work that is undertaken in the dialogues and the technical cooperation programs needs to be clearly communicated to the wider Australian community.

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48 The Most Venerable Thich Quang Ba, Unified Vietnamese Buddhist Congregation of Australia and New Zealand, *Transcript*, 1 February 2012, p. 25.

49 Vietnamese Community in Australia, *Submission No. 9*, p. 4.

- 5.56 The Committee has formed the view that DFAT should enhance its reporting of the human rights dialogues in its Annual Report, in addition to establishing a human rights web portal.
- 5.57 The Department of Prime Minister and Cabinet's *Requirements for Annual Reports* states that 'discretionary reporting should have regard to materiality, parliamentary and public interest, and reader expectations.'<sup>50</sup>
- 5.58 As noted above, evidence received from NGOs, ethnic community groups, and individuals indicates that a majority do not believe DFATs annual reporting is meeting their expectations in regard to the dialogues.
- 5.59 As such, the Committee recommends that DFAT enhance its reporting of Australia's human rights dialogues in its Annual Report. The Annual Report should provide an overview of the current status of each human rights dialogue including:
- a list of dialogue participants;
  - a list of issues raised at the dialogues about each country; and
  - a note of the key outcomes or achievements.

### **Recommendation 8**

**The Committee recommends that the Department of Foreign Affairs and Trade enhance its reporting of Australia's human rights dialogues in its Annual Report. At the very minimum the report should include:**

- a list of dialogue participants;
- a list of issues raised at the dialogues about each country; and
- a note of the key outcomes or achievements.

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50 Department of Prime Minister and Cabinet, *Requirements for Annual Reports*, 8 July 2011, Commonwealth of Australia, p. 7.