



COMMONWEALTH OF AUSTRALIA

JOINT STANDING COMMITTEE

ON

FOREIGN AFFAIRS, DEFENCE AND TRADE

(Human Rights Subcommittee)

Reference: Regional dialogue on human rights

CANBERRA

Thursday, 16 April 1998

OFFICIAL HANSARD REPORT

CANBERRA

JOINT STANDING COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE

(Human Rights Subcommittee)

Members:

Mr Nugent (Chair)
Mr Hollis (Deputy Chair)

Senator Bourne	Mr Barry Jones
Senator Chapman	Mr Price
Senator Harradine	
Senator Reynolds	
Senator Schacht	
Senator Synon	

The committee is to inquire into and report on:

The effectiveness of Australia's regional dialogue on human rights, with particular reference to:

the current debate on the interpretation of human rights in this region;

the place of human rights (civil and political, economic, social and cultural), including the issue of freedom of speech and expression, in the relations between Australia and our regional neighbours;

the place of the debate on human rights in the debate on regional security and stability;

the extent of ratification of the UN human rights treaties in this region and the impact of this on the promotion and protection of the rights of children (including child labour issues), women, workers, indigenous people and minorities; and

the role of existing institutions, both government and non-government, other linkages and avenues for dialogue, and the means by which these might be improved.

WITNESSES

BARKER, Mr Bill, Director, Human Rights International Pty Ltd, 20 Trunketabella St, Potato Point via Bodalla, New South Wales 2545361

CHHOEKYAPA, Mr Chhime Rigzing, Tibet Information Office, 14 Napier Close, Deakin, Australian Capital Territory 2600323

COLEMAN, Mr Ben, Director, Papua New Guinea Section, International Policy Division, Department of Defence, Russell Offices, Russell, Australian Capital Territory 2600351

COSTMEYER, Mr Robbie, Director, Strategic Trade Policy and Operations, Industry and Procurement Infrastructure Division, Department of Defence, Campbell Park Offices, Canberra, Australian Capital Territory 351

DOLMA, Ms Dorji, Tibet Information Office, 14 Napier Close, Deakin, Australian Capital Territory 2600323

GODWIN, Ms Philippa Margaret, Assistant Secretary, Humanitarian Branch, Department of Immigration and Multicultural Affairs, Chan St, Belconnen, Australian Capital Territory 2617339

HURLEY, Colonel David John, Director of Preparedness and Mobilisation, Australian Defence Headquarters, Russell Offices, Canberra, Australian Capital Territory 2611351

KELLY, Lieutenant Colonel Michael, Directorate of Operations and International Law, Defence Legal Office Canberra, Department of Defence, Canberra, Australian Capital Territory 351

LUKOMSKYJ, Dr Oleh, Director, International Section, Department of Immigration and Multicultural Affairs, Chan Street, Belconnen, Australian Capital Territory 2617339

RINPOCHE, Professor Samdhong, Tibet Information Office, 14 Napier Close, Deakin, Australian Capital Territory 2600323

SULLIVAN, Mr Mark Anthony, Deputy Secretary, Department of Immigration and Multicultural Affairs, Chan St, Belconnen, Australian Capital Territory 2617339

YUTHOK, Mr Choedak L, Tibet Information Office, 14 Napier Close, Deakin, Australian Capital Territory 2600323

ZATUL, Mr Ngawang Rinzin, Tibet Information Office, 16 Napier Close, Deakin, Australian Capital Territory 2600323

**JOINT STANDING COMMITTEE ON FOREIGN AFFAIRS,
DEFENCE AND TRADE
(Human Rights Subcommittee)**

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Present

Mr Nugent (Chair)

Senator BourneMr Hollis

Subcommittee met at 10.00 a.m.

Mr Nugent took the chair.

CHAIR—Good morning, ladies and gentlemen, one and all. It is a pleasure to see you here on a nice Canberra morning. On behalf of the Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade, I declare open this public hearing. Today's hearing forms part of our inquiry into the effectiveness of Australia's regional dialogue on human rights and is likely to be the last public hearing of the inquiry. Over the last four months the subcommittee has been gathering oral evidence at public hearings. The next stage of the inquiry process involves consideration of that evidence, as well as the written evidence contained in submissions, and preparation of our report.

During the last several months the Asian economic crisis has cast a shadow over many of the issues at the heart of this inquiry. These issues include the priority which is given to human rights in Australia's relations with its neighbours, the impact of human rights on security and stability in the region, and the ways to improve our process for addressing the promotion and protection of human rights. Witnesses who have appeared before the committee represented a wide variety of interests and areas of expertise. Those appearing today also illustrate the different backgrounds of those people and organisations which the committee is fortunate to be able to draw upon.

However, something that all the witnesses appear to have in common is the wish to achieve a greater concern for human rights, both in our own society and in our regional neighbours' societies. The situation of Tibet and its exiled leaders and communities is one that gains the interest and concern of people around the world. One of its leaders is Professor Samdhong Rinpoche, who combines life as a scholar and academic with his political role as Chairperson of the Assembly of Tibetan People's Deputies.

[10.03 a.m.]

CHHOEKYAPA, Mr Chhime Rigzing, Tibet Information Office, 14 Napier Close, Deakin, Australian Capital Territory 2600

DOLMA, Ms Dorji, Tibet Information Office, 14 Napier Close, Deakin, Australian Capital Territory 2600

RINPOCHE, Professor Samdhong, Tibet Information Office, 14 Napier Close, Deakin, Australian Capital Territory 2600

YUTHOK, Mr Choedak L, Tibet Information Office, 14 Napier Close, Deakin, Australian Capital Territory 2600

ZATUL, Mr Ngawang Rinzin, Tibet Information Office, 16 Napier Close, Deakin, Australian Capital Territory 2600

CHAIR—On behalf of the subcommittee, I would like to welcome Professor Rinpoche and also other representatives of the Tibetan Information Office. The subcommittee prefers that evidence is given in public but, should you at any stage wish to give evidence in private, you may ask the subcommittee to do so and we will consider your request. Although the committee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and, therefore, have the same standing as proceedings of the House itself. I invite you now to make a short opening statement if you would like to do so before we proceed to questions.

Prof. Rinpoche—I chair the Assembly of Tibetan People's Deputies—that is the Tibetan parliament in exile, a body of 46 representatives of various regions of Tibet and also representing various religious traditions. I would like to at the outset express my deep sense of appreciation to you and all the members of the human rights subcommittee for showing interest and continuing to look into the situation of human rights in Tibet. I consider this hearing most significant because it is taking place at a point in time when most of the governments, nations or organisations are rather avoiding talking about the human right situation in Tibet and that was in the name of silent diplomatic or constructive engagements. At this juncture I particularly appreciate the Australian parliament in general and this subcommittee in particular for continuing the dialogue, the search and the query of the human rights situation in Tibet.

I must say in the very beginning that the human rights situation in Tibet has been very seriously deteriorating during recent years and particularly the Chinese well-considered policy of 'strike hard' campaign and also the process of campaigning for re-educating the Tibetan people. Under these two policies, the people of Tibet are facing a great deal of violation of human rights including all kinds of rights, particularly the collective rights of the Tibetan people.

One thing I very clearly would like to depose before this committee is we consider that human beings as a whole are equal and similar. The definition of human rights cannot differ from one nation to another nation, from one country to another country or from one person to another person. The basic concept of equality of all human beings is one of the very important and sacred question relating to human rights.

For the last several years the communist rulers in China have been trying to deny the universality of human rights in general and in particular the Universal Declaration of Human Rights by the UN. Although the former government of China was one of the parties and signatories to the Universal Declaration of Human Rights, it is trying to misinterpret or reinterpret the human rights question as being entirely a Western concept which is not applicable and which is not implementable to the people of Asia and particularly people in China and in Tibet. The violation of human rights in Tibet is more serious, but at the same time the violation of human rights all over China is also in a very serious condition. We have to look at all this as an entirety, not in the particular.

As far as the violation of human rights in Tibet is concerned, the details are very innumerable and there is neither the time nor is it necessary to elaborate everything here, but I would like to mention a few basic points. There are many violations of human rights in Tibet. The first one is political oppression in all kinds of forms. The second is unlawful detention, disappearance, imprisonment and inhumane tortures in various prisons, concentration camps and detention places. The third most serious situation is the absence of the rule of law and absence of any independent judiciary and the necessity of a trial for awarding any kind of punishment. A single authority or a number of authorities can decide the fate of anybody and deliver any kind of judgments.

The fifth important one is torture of women, including the nuns and lay women. They are very much subjected to various kinds of inhumane treatment. The sixth is torture, imprisonment and forced labour of children under the age of 12. Tibet has one of the largest number of child imprisonments and child tortures. There is the reincarnation of the Panchen Lama, who is going to be just eight years of age and is perhaps one of the youngest political prisoners of conscience.

The seventh is very gross and also very subtle racial discrimination in all fields between the Tibetan ethnic groups and the Chinese ethnic groups. An indirect gross violation of human rights in Tibet is the gross destruction of the environment and ecosystem inside Tibet. Not only is that a violation of human rights in Tibet, but it affects the rights of humanity of the entire region, particularly the neighbouring countries.

The final one is the ethnic cleansing policy which has been adopted by Chinese authorities for the last several years. The ethnic cleansing policy was a result of their long experience and considered opinion that, in the beginning, they thought Tibet would be assimilated as the younger generation of Tibet were indoctrinated and brain washed, but that has not come true. Thereafter, they thought Tibet could be assimilated under Chinese

occupation by terror and by repression. That was also found not possible. Then, finally, they took the decisive policy of ethnic cleansing and that ethnic cleansing policy is implemented through various methods: firstly, the policy of the 'strike hard' campaign; secondly, severe implementation of birth control for the Tibetan ethnic groups; and, thirdly, the population transfer from Han China to the land of Tibet. Through these various policies, they are trying to completely wipe out the identity, culture and ethnic group of the Tibetans from the land of Tibet. These things have actually been happening inside Tibet for the last 40 years, and it has particularly worsened during recent years.

To substantiate and elaborate on what I have mentioned here, I would like to place before the committee a few recent and important documents. These were prepared not only by the Tibetans or Tibetan support groups, but by internationally accepted independent and impartial bodies, such as the International Commission of Jurists. They recently published a report titled *Tibet: Human Rights and the Rule of Law*. I would like to place that before the committee as a matter of evidence and elaboration.

CHAIR—We have already got that one, I think.

Prof. Rinpoche—The second is called *China in Tibet: Striking Hard Against Human Rights*. That is the executive summary and the entire report.

CHAIR—We have got that one as well.

Prof. Rinpoche—These two reports I would like to place before you to elaborate on what I have mentioned in my brief statement. I thank you very much for your patience in hearing me, and I am open to any questions or any cross examination. Thank you very much, Mr Chair.

CHAIR—Thank you, Professor. Perhaps I could start off the questioning. You mentioned the Panchen Lama. Could you update us on your latest information or intelligence on what has happened to him.

Prof. Rinpoche—We do not have any authentic information about Panchen Lama. I fear for his wellbeing. In January 1997, our own information was that he and his family were being detained about 20 kilometres from the town of Beijing and that he is being shifted from one place to another place almost every month. Thereafter, we did not have any other authentic report. People, particularly members of the human rights subcommission of German Bundestag, visited last year. They have particularly asked the question. To them, the Chinese authorities admitted that he is well and he is being given education, but he is being kept under the security of the Chinese government in order to protect him from the dangers of the reactionary forces. Thereafter, no particular information about him is available.

CHAIR—Just as an aside, I was in Beijing in April of last year. I made a similar

inquiry and I got a similar response. There is a report on the news service dated yesterday from the Dalai Lama suggesting that, now there has effectively been a change of leadership in China and Zhu Rongji has assumed the position of Prime Minister, he is hopeful of opening up a new dialogue with Zhu Rongji. Are you able to give us any further background or information on that initiative?

Prof. Rinpoche—His Holiness has a policy of open-mindedness and is ready to have a dialogue with China. Through his well-known, middle-path approach—middle-path approach means he is not seeking complete political independence from China—he is ready to accept Chinese sovereignty over Tibet. But he is asking for genuine self-rule by which the Tibetans could protect their own culture and identity. He has taken that position since 1979. That is consistent; there is no change. We always have been open to the Chinese leadership. If Mr Chairman allows me, I place before the committee a document entitled *Dharamsala and Beijing* in which all our correspondences between the Chinese leadership and ourselves for several years in this context have been recorded.

Presently also, we very much hope that the change of leadership might take some positive change towards Tibet. Our friends, the nations and the persons who are trying to begin a dialogue between His Holiness and the Chinese leadership have recently expressed their hope that, in the near future, there might be some positive change and that the present leadership of Beijing might be willing to start the negotiations again. That is only information and we are only hoping, but we do not have any direct communication or any sign of the changing of their position whatsoever.

CHAIR—When I was there one of the things the Chinese said to me was that they understood that the Dalai Lama only wanted total independence and that there had been no approaches from his side to the Chinese government for negotiations. You have just confirmed that there has been no direct contact, but have there been any approaches in recent times?

Prof. Rinpoche—In recent times, only by individuals, organisations or the governments of the countries which are friendly with China and also sympathetic to Tibet. They are trying to establish some kind of contact or exchange of views, but we have not had any direct contact whatsoever in recent years.

CHAIR—During your visit here to Australia, could you give us an outline of the sort of program you are undertaking? For example, are you having meetings with any government officials, government ministers or anything of that sort?

Prof. Rinpoche—Not exactly with government officials, but I met some of our old friends and parliamentarians. My basic contact is with people who are sympathisers with Tibet, in particular the members of the Australia-Tibet Council, the Australian Tibet society and so forth.

CHAIR—The reason I ask that, of course, is that Australia, within the last year, has started up a regular dialogue with China on human rights concerns and issues. There has already been one meeting, and the next one is due fairly shortly. I just wondered whether you saw some possibility that Australia could, in fact, pass on some of those desires, that perhaps a meeting or some contact could be arranged as part of our dialogue with China.

Prof. Rinpoche—I agree with your viewpoint. It would be useful if I could meet some of the officials, particularly those who are taking part in the dialogue with Chinese authorities. We might be able to brief them about our position and we might also be able to explain how His Holiness is sincere in not asking for independence. It has been implied that His Holiness is not sincere, that he is talking about self-rule and, indeed, that he is asking for complete independence.

Perhaps I might be able to explain how His Holiness, his entire organisation in exile and Tibetan people in exile are in agreement with His Holiness in seeking genuine autonomy, or genuine self-rule—not independence—and how we are sincere for this dialogue. I might be able to explain this position, and it might be very useful for us if the Australian government could take positive steps and initiatives in persuading the Chinese authorities to the negotiation table.

CHAIR—Chhime, have you made an attempt to get the professor a meeting with anybody in DFAT?

Mr Chhoekyapa—I met officials of the Department of Foreign Affairs and Trade about a month ago. As you know, the government is genuinely interested in helping in whichever way it can. But, sadly enough, I have not yet received any formal response to my request for a meeting with Rinpoche during his visit here. So, since he is here until the eighth of next month—especially at the University of Tasmania, where he is going to teach for the next three weeks—I hope to receive some response which will lead to some kind of meeting with government officials, or whomever the government deems fit. But, at the same time, if I may take the opportunity, I would also like to request on the record that, if the subcommittee can also initiate or help in arranging such a meeting or in expediting such a meeting, we would appreciate that very much.

CHAIR—It seems to me that the two people that you should most likely be talking to or meeting with are Roland Rich, who I think heads up the international section, and Peter Heyward, who has recently been appointed in the human rights section. They would seem to me to be the logical targets. When we adjourn today, I will ask the secretary to give them a ring and see if they would be prepared to meet with the professor. The secretary will get in touch with you to let you know that.

Mr Chhoekyapa—Thank you very much.

CHAIR—Also, when I was in Beijing last year, I had a meeting with Zhu Rongji and I raised with him the subject, for example, of human rights in Hong Kong, which this committee was conducting an inquiry into at the time. I have to say that he seemed to be much more prepared to talk about those issues than some of his predecessors. Certainly I would be optimistic if His Holiness could get together, if it could be arranged—it may not be straightaway—for a one-on-one meeting. If some moves can be made, that might help the situation. If we can help facilitate that, obviously we will do whatever we can to help in that respect.

Prof. Rinpoche—Thank you. I appreciate that.

Senator BOURNE—Rinpoche, welcome to Parliament House. There are a couple of things that might be really useful if you could put them on the record. The first would be the Assembly of Tibetan People's Deputies. When His Holiness was out here last, I was at a meeting when he discussed how people are appointed and elected and the plans there are for the Tibetan People's Deputies, if you can get back to Tibet and have a semi-autonomous government there. Could you tell us how the Tibetan People's Deputies work now and what the plans would be if Tibet were able to be autonomous?

Prof. Rinpoche—At the moment, the Assembly of Tibetan People's Deputies are working under a written charter, which was adopted in 1991 by the 11th Assembly of Tibetan People's Deputies. In that charter, as far as it is practicable and accessible to the community in exile, we tried to make a completely democratic structure. Within which, the provisions are made for the powers and functions of the legislature and the powers and functions of the executive. Of course, we cannot have a complete set of judiciary within another country but, in lieu of the independent judiciary, we have a kind of tribunal. We are functioning within that framework.

The Assembly of Tibetan People's Deputies is the highest body to legislate and also to make decisions on policies and programs. That assembly chooses the executive, an eight-member Kashag—cabinet. That eight-member cabinet is responsible, answerable and accountable to the parliament. They remain in office as long as they enjoy the confidence and the support of the assembly.

His Holiness, the Dalai Lama, by virtue of the institution of the Dalai Lama, would be the head of the executive government, the Kashag, but that is subject to the approval of the assembly, and the assembly has the power to take away that function from His Holiness and appoint a council of regent instead, if necessary. By virtue of the institution of the Dalai Lama, he has also been the head of state. Therefore, he has the right to address and send messages to the assembly.

Whatever legislation, laws or rules are framed by the assembly, they have to get the consent of His Holiness, the Dalai Lama. If he does not agree to those formulated rules, he has the power to send those back only once to the parliament for reconsideration

with his reasons. If the parliament does not reconsider on his lines, for the second time he shall have to agree or he may refer it to the people for a referendum. So these are the parliamentary procedures that we are working through.

Also, the assembly is the highest body to control and decide the budgetary provisions. The entire financial powers are vested in the assembly. The assembly passes the annual budgets and also supplementary budgets. Without sanction of the parliament, not a single penny can be received or spent by the executive body. This is the broad set up of our working system.

His Holiness has also suggested that, if we are able to go back to Tibet, we are seeking the Chinese already accepted principle of one country, two systems, which has already been implemented in Hong Kong after going back. For that, His Holiness has suggested a kind of democratic constitution for Tibet. There would be a democratic set-up. There will be an elected parliament and the parliament would elect the executive. The executive would be accountable to the parliament, which is a similar working condition as we practice now. This will be for the future set up also, but it is only a suggestion. The future set up shall have to be decided by the Tibetan people who are living inside Tibet. When such a situation comes, they have to take part, they have to discuss and they have to decide. But His Holiness has suggested a number of alternatives such as some presidential type of constitution or some parliamentary type of constitution. That shall also fit within the Chinese larger framework of the Chinese overall constitution. So these are some of the future visions.

Senator BOURNE—It sounds very reasonable to me, I must say. I ask you also about the transmigration issues and the Han Chinese coming into Tibet. I must say that, when I was there seven years ago—it is a long time ago now—I do not think I met any Han Chinese who did not want to go back where they came from, because Tibet can get very cold and it is very far away from their families in general. But it does seem that there are an awful lot of Han Chinese who have come to Tibet who are staying there. Do you know if the transmigration has increased lately?

Prof. Rinpoche—Transmigration has very much increased, particularly during the last five years. Until seven years ago, there was not much of a systematic policy of transfer of population by the government, but people are going there mostly on their own in search of a livelihood or employment. At this moment, the Chinese policy of population transfer has given a lot of economic incentives to transferred populations such as land, interest free loans, small interest loans, business establishments, housing and employment. Therefore, they are now willing to settle in Tibet in spite of the unfriendly climatic conditions.

Similarly, it has been made a condition that government officials, particularly the people serving in the people's liberation army, if they are posted for the last five years of their retirement inside Tibet, must retire in Tibet and must settle in Tibet. If they would

like to go back to the mainland, then their retirement benefits, including their ration cards, will not be provided in mainland China. Also, the birth control laws are very relaxed for Chinese couples whereas they are very strict for Tibetan couples. These kinds of various incentives through racial discrimination have encouraged the Chinese people who have been transferred to Tibet and are now willing to settle inside Tibet.

Senator BOURNE—Thank you. Have we got time for two more questions?

CHAIR—Yes.

Senator BOURNE—I am not sure if you know the answer to this question about the Disney film *Kundun*, which is about the early life of His Holiness. There seems to be a great deal of trouble having it screened in Australia and we are told it is because it will be very expensive to screen. Do you know if there has been trouble having it screened anywhere else in the world—in America, for instance?

Prof. Rinpoche—I do not know. Perhaps other members might know.

Ms Dolma—There have been some problems in America, Europe and Canada. Some parts of the American film industry did screen it in a number of cities but not on a large scale like they would normally do with a Hollywood film like that with a budget as high as that. In England and Canada as well, very few cinemas screened it. We cannot get it here.

Senator BOURNE—I know. I am trying to work out how we can get it, so at least we can show it in Parliament House. If anyone can tell me, let me know.

Ms Dolma—From the information we received, Roadshow—which is the distributor here—have some interests in Hong Kong and China and, apparently, they did not want to jeopardise those interests by showing the film here. We are trying to get it shown here through some private or individual companies.

Senator BOURNE—Good. Dorji, could you let me know about that?

CHAIR—Perhaps we could ask our secretariat to write on behalf of the inquiry to the management of Village Roadshow to ask what the actual situation is.

Senator BOURNE—Yes, that would be terrific just so we can find out. We will let you know, Dorji.

Prof. Rinpoche—Mr Chhoekyapa has more information.

Mr Chhoekyapa—Over the last two or three weeks, there has been some news in the Australian newspapers, including the *Australian* of 10 March. I would like to put this

on the record. There was some news on page 8, of the *Tibet News* issued by the Tibet Information Office.

As Dorji Dolma has said, there are some obvious reasons. On the one hand, we are told that, just because Disney is putting a high price on the film *Kundun*, the distributors in Australia—especially Roadshow—cannot afford to pay the price to show it in Australia. At the same time, there are some other reasons, I believe, preventing the business houses like Roadshow from showing this film in Australia. The indications over the last week or so are that the Australian people will be able to see the film in the next few months. In other words, at the moment, some negotiations are going on with some other distributors.

I also noted that, in the last sitting of the Senate last week, Senator Bourne gave a notice about this. I understand that she is going to raise it in the next sitting of the Senate. I hope something will come of that because everybody benefits, not just a few.

Senator BOURNE—Thank you.

CHAIR—Mr Hollis has a question.

Mr HOLLIS—For the record, what is the situation in regard to the Tibetan language? Can it be used freely in Tibet or are there restrictions on its use?

Prof. Rinpoche—Thank you for this question. The Tibetan language has been very much downgraded and almost prevented from teaching and learning in all the schools, particularly during the last year. The entire medium of instruction in the schools and universities has been changed by order. Even the Tibetan subjects—such as Tibetan medicine, Tibetan astrology and Tibetan history—are asked to be taught through Chinese language. In the University of Lhasa, except for the department of the Tibetan language and literature, all the other departments are asked not to use the Tibetan language for composition purposes anymore, not even for the medium of instruction or any casual references or for conversation.

For quite some time the Tibetan language has not been taught at all in the schools as an official subject and it is not counted for examination purposes, but they can teach or they can learn privately. But that is also now more and more prevented in the school stage. Not only that, even in the day-to-day life the Tibetan language is now mixed with the Chinese language almost 40:60. Even common people cannot afford to speak pure Tibetan language. For all their daily life of dealing with the offices and shops and for business transactions they have to use the Chinese language and Chinese script.

Mr HOLLIS—In reply to a question about birth control you said that within the Chinese population it was very open but within the Tibetan one it was very restricted. Are there any actual restrictions placed on the number of children Tibetans can have by law or is this a cultural thing?

Prof. Rinpoche—There is no separate law as such, but birth control regulations are similar for majority ethnics or minority ethnics. In application or in practice, birth control law is very much implemented for the Tibetans. There is some kind of relaxation for the Chinese ethnics. Perhaps in this matter you might add some more, Ms Dolma. But the severeness of the implementation of it is very much stricter for the Tibetan population, according to our information.

Ms Dolma—Do you want to hear more about that?

CHAIR—Yes.

Ms Dolma—As Rinpoche was explaining, that is the situation. There is a version of the official statement—that is the case for the Tibetan people or the ethnic groups. In practice there are many difficulties if you are a Tibetan woman because officially they do state that a Tibetan woman can have two children. That is the official statement, but in practice many Tibetan women working in Tibet under the occupation face severe punishment when they find that they are pregnant for the second time. The punishment can be an economic imposition—not getting an increase in their wages. So there is a lot of psychological and physical trauma that the woman has to go through.

There are also many cases of a woman being forcefully aborted and sterilised without her consent. This is widely documented in many of the reports as you have read before. So that is the situation. We were hoping that something would come out of the United Nations' International Women's Conference in Beijing. Tibetan women were there—they were able to go there. In the Beijing declaration all governments, including China, reaffirmed their commitment to protect women's human rights. They also reiterated that they would refrain from abusing women, particularly in the form of forced abortion and sterilisation. Yet at the same time China is violating all those commitments. It goes on. This is a major problem.

The problem that comes out of this is the children. We are left with a generation that are not receiving decent education. This is a major concern for us. A whole generation of Tibetans in Tibet under occupation are not receiving decent education because the parents cannot afford to send them and pay incredible amounts in fees. The children are not taught what they are supposed to be taught. The standard of education is also very poor because the teachers are not fully trained from what we have read. So that is the situation.

Mr HOLLIS—Do the parents have to pay for their children's education?

Ms Dolma—Yes.

CHAIR—Does that apply to the Chinese as well?

Ms Dolma—I am not sure about the Chinese, but the Tibetans have to pay fees to enter school.

Mr Chhoekyapa—In most areas, there are two levels of schools—that is, one for the Chinese and one for the Tibetans. A few Tibetan children may go to the elite schools or the schools meant for the Chinese, and they are the sons or daughters of some of the high officials of the government. Otherwise, there is discrimination.

Last year, I met a Tibetan professor who lives in Italy and visits Tibet very often, and China also. He was telling me that he went to a school and they showed him all the modern equipment, including computers. When he looked around, he did not see anyone really looking like a Tibetan. He asked his hosts, ‘How many Tibetans are in this class?’ They said, ‘Tibetans do not have the intelligence to be with these students.’ So he has told me that, given the chance, we can be as good as them, if not better. So this is sort of a compliment.

CHAIR—Could you explain to us the degree of contact that you have with Tibet at the moment? Professor, for you, the Dalai Lama and others in exile, how frequent is the contact? What is the nature of the contact you have with people in Tibet? When you tell us what the situation is like there, what is the basis of that information? Is it that you have regular recent contact? Is it correspondence? Is it just people coming out? Is there, if you like, trade in both directions so that people travel regularly?

Prof. Rinpoche—Some selected places of Tibet, not many, are open to tourism. In those places, quite a number of outsiders, particularly Western tourists, have started going in, and that is one of the limited sources of information coming back. Sometimes there is documentary proof in writing or in the form of pictures or in the movies.

Secondly, a limited number of Tibetans are now coming out of Tibet on the proper travelling document. Almost every year, a certain number of those kinds of people keep coming out and going back. That is a second general kind of contact.

Thirdly, a lot of the information we can gather is from the Chinese published documents, their various reports and the proceedings of their conferences and meetings which sometimes officially come out and sometimes are smuggled out by various sources. It is very limited, but sometimes we do have our own intelligence channels which would have a little bit of a network inside Tibet. The newspaper reports and radio broadcasts are also available outside Tibet. So these are the basic sources of gathering information.

CHAIR—On a different tack, what do you think Australia could or should do to help the situation?

Prof. Rinpoche—Australia has been neighbourly and also has had the good relations with the People’s Republic of China for quite a long time. I think it could do a

great deal, firstly, to encourage Chinese people to improve their human rights records in China and in Tibet and to show more tolerance. Also, it could encourage them to have the dialogue to solve the Tibetan issue, which would not only be beneficial for the Tibetans alone but also enhance the image of China and lessen the problems for the Chinese authorities. Also, it would contribute a great deal to peace and stability in the region, and perhaps in the world.

For that matter, I think the Australian government is quite different from the Western countries which China is more suspicious of or has less confidence in. Japan and Australia are countries that China could put more reliance in. In that way, perhaps this country could play a more positive role for persuading the Chinese people to come around without any impossible preconditions of dialogue with the Tibetans in exile and His Holiness, the Dalai Lama. Also, perhaps the Australian government would be able to explain the sincerity and the genuineness of the position of His Holiness and that there is no hidden agenda behind what we are saying. For that matter, the Australian government could put a guarantee that what we are talking about is genuine and sincere. These are just my immediate thoughts. Perhaps we can think of this in more detail.

CHAIR—You started off today by listing in broad terms a number of ways in which China has adversely impacted Tibet. If you talk to the Chinese, they take the view that the previous Tibetan regime was autocratic, that the leadership really took advantage of the common people and that what the Chinese government is doing is to inject capital, infrastructure, more schools and so on and so forth. The Chinese say that, whilst there may be some diminution of the Tibetan culture, language and so on, nevertheless, it has been for the greater good of the country and that the raising of living standards and so on have all been beneficial. I might add that there are those in this country who apply a similar scenario to indigenous people. Are you able to give us, if you like, a picture of a day in the life of people who are living in Tibet now compared with what it was like before? What are the practical, on-the-ground differences that people are finding under the Chinese regime?

Prof. Rinpoche—That is a very good and a very important question. Thank you for asking it. As far as the past history of Tibet is concerned, we do not say that the system of Tibetan governance before Chinese occupation was a good one or a perfect one. We do realise and we do accept that the governance system of Tibet was outdated and not exactly totalitarian but a kind of authoritarian government. It was very different from any other system of government at that time.

That was not adequate and not good for the Tibetan people, which was realised by the present His Holiness, Dalai Lama, long before the Chinese occupation of Tibet. He was very much for reformation and the establishment of a rule of law and a democratic system in Tibet. Ever since his childhood, he dreamed of a constitutional government and having the people represented in all this, but he was not able to implement that. When he took over the charge of temporal when he was 16 years old, China had already occupied

half of Tibet at that time.

Nevertheless, his first priority was to set up a Council of Reformation. A 64-member Council of Reformation was set up in 1950 and 1951. He was making the process of changing the Tibetan government system. He has very clearly stated that it is good for the people.

But at the same time, the government of Tibet was not completely autocratic. Successive Dalai Lamas used to be the rulers and the Dalai Lama can be born in any house. There is no heredity or any other such kind of thing. In between the Dalai Lamas, the regents are chosen by the assembly of the people. Although the assembly of the people was not well representative of all sections of people, it was a traditional assembly, but that assembly, which is considered to be representative of the people, was having the highest level of power and it decides the policies of the country. The worst system of the old government was the taxation and collection of government revenues, which were already starting to be reformed in the early stage of His Holiness's rule.

As far as after the Chinese occupation, China always gave accounts of what they spent for the so-called Tibet Autonomous Region, but they gave accounts of what amount of wealth they have stolen or taken out of Tibet. If you put both of the amounts together, then the Chinese government's figure of expenditure for the development of the Tibet Autonomous Region will not be 00.1% of the amount they have taken out of Tibet in terms of uranium, gold, calcium, aluminium and hundreds of various minerals, timber wood and what not.

The Chinese economy in the 1970s and early 1980s could get through and be sustained only on the basis of the wealth they had taken out of Tibet. Even today, more than hundreds of the goldmines are active and they are taking a great deal of gold every day from the soil of Tibet. Therefore, their earnings from the soil of Tibet and what they expended over it in return defy comparison. So that is to be taken into account. When you talk about the expenditure for the development of Tibet, all the other governments ought to ask what they are taking out of Tibet—from the goldmines, from the petroleum products and from the various natural resources. These are to be taken into account.

As far as the standard of living of the common man is concerned, I do not need to explain—it is very clear on the ground. Even today, a large number of Tibetan people are facing starvation and a large number of Tibetan nomads have faced snow disasters for the last two or three years, for which no adequate and sufficient relief measures have taken place through the Chinese government in spite of their getting a great deal of foreign relief materials. They are not properly channelled to the people who should be getting them. There is a large amount of unemployment still there, and the living standard in the rural areas is much worse than before. This is very much evident. Very few chosen people might have become newly rich during the last few years but, whatever the economic development taking place in Tibet, it has not benefited the small number of Tibetan native

people: that is a fact.

Senator BOURNE—I am interested also in the teaching of the Tibetan culture, history and religion, both within Tibet—which I suspect is very much degraded from what it was, if it exists at all—and also outside Tibet in the Tibetan exiled communities. Can you tell us what levels of teaching there are of the culture, history and religion?

Prof. Rinpoche—It is very difficult to make a correct assessment because religion and culture have to survive in the life of the community; they cannot survive in the museums or the preservation houses. The Tibetans in exile have been uprooted from their cultural and religious environment. They are exposed to a very different scenario. I used to say that we have jumped from the 7th century environment to the 20th century environment overnight. This culture shock and jumping of the time gap have amazed and caused some kind of confusion which has greatly affected the minds of the Tibetans in exile, particularly the younger generation.

For Tibetans inside Tibet there is no question of systematic cultural or religious teaching. It is only individuals that are learning through various private sources. The religious teachers are not allowed to conduct mass teaching. The monasteries are restricted to particular numbers of monks. They also have to undergo now and then through the process of re-education and through rechecking by the democratic task force and something like that.

Culture is never taught anywhere. Only the Chinese version of history is taught. The way of life in day-to-day living has been greatly Sinocised through language domination. Even the music, songs and dances have been almost completely transformed into a Chinese form. The total result is that survival of Tibetan tradition and culture inside Tibet is almost impossible. In relation to the level of the same outside Tibet, firstly, the population in exile is very small—there are just 130,000 all over the world—and, secondly, they are scattered; they are not at the one place. They are facing various different cultures. Therefore, our legacy outside Tibet is also not very bright. That is the total situation.

Senator BOURNE—Thanks; that is very sad.

Mr Yuthok—On the note of culture and tradition, the whole plan of the PRC government is to totally marginalise Tibetan people as people. Therefore, the population transfer was very much a technique of wiping out the culture and separate identity that Tibetans have. Tibetans realising that the whole idea of schools, universities and monasteries—wherever there is a place that has some kind of standing where people expect to get education—are not institutions from which they wish to learn, therefore, risk their lives to escape to exile. Parents actually risk their lives to send their children to India.

Now we have a huge population problem of a different kind happening in exiled

Tibetan communities in India and Nepal. Only a few days ago we heard that 118 Tibetan escapees were arrested and some were very brutally beaten by the Nepalese authorities, which are constantly encouraged by the Chinese to do just that.

So the reason that Tibetans are escaping is not that there are better living conditions in Tibet—if there were, why are they not staying? If there are, why are we not returning? His Holiness is saying that we will be happy to live under the Chinese, and what do we have to lose? If the roads are better served for the Tibetan cause, why are we not using them? We are not using them because these roads are made for military purposes. These roads are used for the purposes of transporting mineral resources from Tibet to China. So, if you look at this, the whole Chinese way of Sinicising Tibet has meant that any institution that may be built, or monastery which is allowed to reopen, is simply for tourist purposes and dollar purposes more so than for any sympathy they may have for the Tibetan nature.

I will add to the request as to what the Australian government can do. The Australian government has championed itself in improving the situation in Cambodia. It wants to be included in the Asia-Pacific region as one which has probably certain closer ties with the American system of policies. Nevertheless, the foreign affairs policy on the question of Tibet—I believe, as a Tibetan who reads history—is no more than a British version of foreign policy.

The Australian government truly can stand on its own feet. While trying to become a republican nation, it should review its whole policy of Tibet as a separate state. This request is a very important point for this committee—that is, to look at the issue of whether the Australian government's foreign policy is really a legitimate Australian government foreign policy or whether it is a version of British misstatement.

CHAIR—If we get into areas of whether we want a republic or of how independent we are, I can only get into trouble, so I will not comment. But I take your point.

Resolved (on motion by **Mr Hollis**, seconded by **Senator Bourne**):

That the following documents be incorporated in the records of the Human Rights Subcommittee as exhibits to the inquiry into the Regional Dialogue on Human Rights:

- . *Tibet News*, January-March 1998, Vol. 4, No. 1
- . *Dharamsala and Beijing*, Initiatives and Correspondence 1981-1993
- . *Tibet: Human rights and the rule of law*, International Commission of Jurists, December 1997
- . *Tibet: Human rights and the rule of law*, Executive Summary, International Commission of Jurists, December 1997
- . *China in Tibet: striking hard against human rights*, 1997 Annual Report, Human rights violations in Tibet, Tibetan Centre for Human Rights and Democracy
- . *China in Tibet: striking hard against human rights*, Executive Summary, 1997 Annual Report, Human rights violations in Tibet, Tibetan Centre for Human Rights and Democracy

. 'Paying the ultimate price', *Time*, 20 April 1998

CHAIR—As so often happens on these occasions, the one thing that always beats us is time, and time is marching on. If there are no other particular matters that we have not covered that you might want to bring to the attention of the committee before we close, I thank you very much for your attendance here today. If there are any things which we, on reflection, want more information on, the secretary will write to you. We will also send you a transcript of your evidence, to which you can make corrections of grammar and fact. Thank you very much for coming. Enjoy the rest of your time in Australia, which I, as a migrant to this country, will tell you is the most wonderful country in the world. We certainly wish you success in your endeavours. Thank you.

Prof. Rinpoche—Thank you very much.

[11.17 a.m.]

GODWIN, Ms Philippa Margaret, Assistant Secretary, Humanitarian Branch, Department of Immigration and Multicultural Affairs, Chan St, Belconnen, Australian Capital Territory 2617

LUKOMSKYJ, Dr Oleh, Director, International Section, Department of Immigration and Multicultural Affairs, Chan Street, Belconnen, Australian Capital Territory 2617

SULLIVAN, Mr Mark Anthony, Deputy Secretary, Department of Immigration and Multicultural Affairs, Chan St, Belconnen, Australian Capital Territory 2617

CHAIR—On behalf of the subcommittee, I welcome the officers of the Department of Immigration and Multicultural Affairs. The subcommittee prefers that all evidence is given in public but, should you at any stage wish to give any evidence in private, you may ask to do so and the subcommittee will consider your request. Although the committee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and, therefore, have the same standing as proceedings of the House itself. I invite you to make an opening statement before we proceed to questions.

Mr Sullivan—Thank you, Mr Chairman. We are very pleased to take the opportunity to appear before the committee today and to comment on aspects of our written submission. Australia's strong international stance on human rights is reflected in DIMA's portfolio activities on both the international and domestic levels. DIMA's submission to the committee was lodged in November 1997. Since the submission was prepared, there have been significant changes in some of the major economies in the Asia-Pacific region. These changes have the potential to affect patterns of people movements in the region, both legal and illegal.

There are two issues associated with these changes that have particular relevance to the immigration portfolio. Firstly, we have noted that people movements in the Asia-Pacific region are beginning to change. Secondly, the economic downturn may have some possible consequences for the observance of human rights in the region and for the creation of refugee-like situations. These developments have implications for our portfolio, policies and programs and affect how we engage with countries in the region and with multilateral bodies.

While I understand your committee is primarily interested in DIMA's dialogue with other countries and organisations in the regions, I would like, firstly, to refer briefly to our domestic responsibilities which have a human rights aspect. Those areas of the immigration portfolio mentioned in our submission which have human rights aspects include the onshore refugee program and the offshore humanitarian program. Other areas include the return of failed asylum seekers, the detention of unauthorised arrivals, the

removal of unauthorised arrivals and criminal deportations. The principal relevant international instrument for the immigration portfolio is the refugee convention and its associated protocols. It is incorporated into the domestic law through the Migration Act.

DIMA's submission also makes mention of the other significant international covenants which impact in various ways on the immigration portfolio. These include the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Elimination of All Forms of Discrimination Against Women.

These international conventions are recognised in our policies and program management process, although they are not specifically incorporated in Australia's domestic legislation covering migration. The committee will be aware that Australia's obligations under international law do not become part of Australia's domestic law unless they have been made part of that law by legislation made in Australia.

I now turn to the subcommittee's focus on Australia's dialogue on human rights in the Asia-Pacific region. As mentioned in our submission, Australia was one of the first signatories to the refugee convention and provides protection to every applicant within Australia who comes within the convention's definition of a refugee. In DIMA's view, there are people in our region who are refugees and should be given the necessary protection.

The economic downturn in the region can be expected to produce an increase in attempted illegal people movements between some countries as people seek to find employment. As an example, in the first three months of 1998, there was a significant increase in the number of people detained by Malaysia for attempted illegal entry. Illegal people movements can include both economic migrants and persons seeking asylum for humanitarian reasons. Differentiating between the two groups is a significant task for receiving countries.

It is a matter of record that a number of countries in the Asia-Pacific region are not signatories to the refugee convention. These include Burma, Indonesia, Malaysia, Singapore and Thailand. Hence, Australia's interests in terms of the refugee convention are not only in providing protection in Australia to convention refugees but also in monitoring developments in the Asia-Pacific region, including both the changing pattern of illegal people movements and the immigration and asylum policies and practices of countries in the region which are subject to illegal people movements.

Our submission listed several regional conferences and other activities in the immigration field where Australia has taken a leading role. Australia, with the UNHCR, was the co-sponsor of the initial conference on regional approaches to refugees and displaced persons, held in Canberra in 1996. The follow-up consultations, now known as

the Asia-Pacific intergovernmental consultations on refugees and displaced persons—APC for short—are a constructive and helpful mechanism in which Australia can pursue its current interests concerning the effect of the economic downturn. The next meeting of the APC is scheduled to be held on 9 and 10 June. It will be a timely opportunity to discuss people movements caused by the regional economic situation.

The APC is a forum through which Australia can influence regional approaches to migration issues which tend to have a human rights component. APC discussions are candid and are informal. A great deal of trust has already been built up between the member countries. The involvement of the UNHCR from the outset has established the APC as a highly credible forum. It is likely that the International Organisation for Migration, IOM, will co-chair the next meeting along with the UNHCR.

I would also like to mention the close and constructive relations that we have with both the regional offices and the Geneva headquarters of the United Nations High Commissioner for Refugees and the IOM. We value highly the policy dialogue and the cooperative working arrangements that we have with both these bodies. We continue to participate in meetings of the executive committees of UNHCR and IOM. The UNHCR's tripartite consultations—that is, the UN, government and non-government organisations—will be held in Canberra on 21 and 22 May this year, and the minister will open that meeting.

Our submission also refers to delegations from countries in the region. These activities continue. They enable us to influence regional policies. They provide opportunities to demonstrate best practice. They build trust within the region. They establish contacts at the officer level.

In conclusion, our submission outlined the way in which DIMA engages in human rights dialogue in the region through immigration issues. Through our own observance of international obligations, we have built a sound reputation which is the basis on which we engage the region in these matters. We engage the region in a variety of ways and each of these ways has its own strengths—multilateral relations, international organisations and bilateral relations.

We consult closely with UNHCR, IOM, DFAT and other relevant agencies on these matters and often work in close partnership. We are engaged in frank and productive discussions in many areas which have human rights implications and which have the potential to improve the way in which migration and humanitarian matters are dealt with in the region—preventing people trafficking, dealing with displaced persons, processing of asylum seekers and exchanging information and technologies.

Our relations with countries in the region have been built up with care at several levels. There is now a great degree of trust in Australia's regional role. The hard work we have put in to building close links is paying dividends as we seek to assess and prepare

for the potential consequences of the current economic situation in the Asia-Pacific region. The lines of communication between Australia and other countries in the region are open, and we are engaged in more detailed discussions of migration related matters. The prospects for our regional role in the future are very good.

CHAIR—I understand that your minister made a speech to a human rights meeting of some sort on Tuesday which I understand is worth reading. Are you aware of that? I wondered if you could get us a copy and send it to our secretary.

Mr Sullivan—I can certainly get a copy.

CHAIR—I was told by Mr Hollis. I do not know whether he was there or whether he just read it, but I understand it was quite a good exposition of the department's position.

Mr Sullivan—It is probably useful. The minister has engaged in three major speeches in the last month or so: one was at the National Press Club here, one was in Victoria and one was in South Australia. We will get copies of each of those to you because they certainly outline some of the responses to issues in the immigration field which do impinge on human rights.

CHAIR—I have got three questions I would like to ask. The first one relates to our detention of boat people and other illegal immigrants for which we have been criticised somewhat in the international community of late. I understand that we had a backlog and getting through the backlog, if you like, was a particular challenge. Could you give us an update on where that detention process stands, the sorts of numbers we are talking about and some of the issues involved in that?

Mr Sullivan—There are now very few boat people in detention. The number would be fewer than 20 persons in detention. That has largely been through repatriation of failed asylum seekers to China and the willingness of the Chinese government to accept people back. We now, however, still maintain a detention population of between 300 and 400. The majority of long-term detainees—and by 'long term' I mean anything over three months—are unauthorised arrivals but by aeroplane rather than by boat. They come from a variety of countries. The greatest number are from countries like Sri Lanka, Iraq, other parts of the Middle East, and the Sudan. They constitute now the greatest proportion of people in long-term detention. On boat arrivals, I think we now have only five people in detention from the PRC. That will probably reduce to, we hope, zero in the next few weeks.

In terms of policy, there has been, as you rightly say, a lot of criticism of Australia's detention policies. We certainly had a reference to the United Nations human rights committee and a view from them. The major area of policy change since the circumstances of the individual who was detained and was then subject to that reference

has been in processing. It is an aim of both the department and the Refugee Review Tribunal that no-one in detention shall have their primary application for asylum dealt with in longer than three months and that, if they seek a review of that primary application if it is a negative decision, the Refugee Review Tribunal will seek to consider that review within three months.

To date we are holding to those numbers, which means that a person in detention greater than six months is a person who is a failed asylum seeker through both primary decision making and merits review and is in detention for a number of reasons. One could be that they are pursuing their case legitimately through the Federal Court or through other courts, including the High Court. Another could be that we are unable to remove them from Australia due to not being able to get a travel document. That could reflect, one, their cooperation and, two, the cooperation of the receiving country.

CHAIR—So what would be, for example, the longest time that anybody currently being held has been in detention?

Mr Sullivan—I will have to get you that number, but it would still be a number of years. I will get you some complete statistics which profile the detention population by country, by gender, by age group and by length of stay.

CHAIR—That would be helpful.

Mr Sullivan—We have those statistics available.

Mr HOLLIS—You mentioned approximately 400 people being in detention. Where are they? They are not at Port Hedland. Are they somewhere like Villawood?

Mr Sullivan—The majority of those are in Sydney at the Villawood-Westbridge centre. Villawood-Westbridge is a two part detention centre. Part one is called the Villawood Detention Centre. To use terminology it is a medium security installation. Part two is low security. It is a converted migrant hostel with a fence built around it. The majority of long-term detainees now are held there. A large group of aeroplane arrivals from Somalia who came in were transferred to Port Hedland. They came in the guise of a refugee flight.

CHAIR—One other question on that particular broad question. Is that 400 figure a growing figure or a diminishing figure? Is there a trend? You might want to include that in the statistics.

Mr Sullivan—The trend of unauthorised air arrivals seeking protection is a growing trend. The law as it stands is such that an arrival faces mandatory detention until such time as they are removed or their claims are accepted.

CHAIR—My second question is in respect of Hong Kong. As I understand it there are 39 people from Vietnam in Hong Kong who have been rejected by Vietnam but have not been granted sort of permanent status in Hong Kong or elsewhere. I am aware that our government has been asked to re-look at them. Could you for the record tell us what the situation is on those 39 people? I take it you are familiar with that case?

Mr Sullivan—I am familiar. The 39 families who were involved were found under the comprehensive plan of action process not to be refugees and have not been identified as being in need of resettlement. So point one is that they have not been found to be refugees. I understand that the Hong Kong Special Administrative Region government is continuing to negotiate with the Vietnamese government to allow these families to return to Vietnam. In the meantime they have allowed the families greater access to community services. The Hong Kong SAR government is not saying what will happen to these families if the negotiations with Vietnam do fail. However, we have been given assurances by the Hong Kong SAR government that there is no contemplation of moving the families out of Hong Kong and particularly, as I think there have been some suggestions made, to mainland China. Certainly the Hong Kong SAR officials have given us assurances that that is not contemplated.

A number of these people are now living in the community in Hong Kong. Some are employed. I do not think the Hong Kong officials see any short-term outcome either way. I think we are going to see a status quo with probably a broadening of their access to community services as the negotiations with the Vietnamese government continue. That is one of several issues that the Hong Kong government is negotiating with the Vietnamese government. To put it bluntly, it is probably one of the harder ones and it may not be on top of the agenda.

CHAIR—My third question concerns Indonesia. The reason I was flicking through my papers just now is that I could not find the date of your submission, but I assume it was last year.

Mr Sullivan—Yes.

CHAIR—Obviously, as I think you said in your opening statement, the economic crisis in Asia has changed a lot of perspectives, particularly in relation to Indonesia. You referred to the movement of people between Indonesia and Malaysia and the forced repatriation and so on from Malaysia. What is your reading of the likely impact on the economic problems in Indonesia in terms of movement here illegally? What sorts of plans are you putting in place, if you are able to tell us? Do you have any plans? What is your current thinking on that situation?

Mr Sullivan—We are, as a part of a whole of government brief, watching seriously the developments in Indonesia. For us there are a series of potential concerns. There are Australian nationals in Indonesia, and we are party to those concerns. There are

visaed Indonesians. We have to have a view to what is the potential impact of some 100,000 plus Indonesians who have a visa of some sort valid to enter Australia. There is also the potential of illegal movement from Indonesia to Australia, although historically that has not been the case. In terms of crisis—it is probably far greater than the economic crisis of today, including the problems in the mid-1960s—Indonesians do not tend to move out, but we have the combination of economic problems, political uncertainty, food shortages and labour market downturns, which is a fairly combustible grouping of events.

We watch with interest what is happening in terms of Malaysia. Our advice and our understanding is that, while Malaysia's attitude to the illegal migrants has hardened and they are detaining more and we are seeing forced repatriations with some issues to that, the numbers are probably no greater than the historical numbers. There has been a long-term movement of Indonesian labour into Malaysia which, in the past, has generally been accepted because it has been necessary to drive the Malaysian economy as much as anything else.

CHAIR—They have about a million migrant workers there, haven't they?

Mr Sullivan—Yes. So I think what we are seeing is more of a reaction to the Malaysian labour market contracting. We are seeing the Malaysian reaction to what has been a fairly normal movement, unlawful as it is, of people from Indonesia to Malaysia. We do not think we are seeing escalated numbers. We are not seeing any increase in the number of people applying to come to Australia on visitor visas. In fact, we are seeing quite a downturn in terms of people coming to Australia on visitor visas. We are seeing our student numbers stay about the same. We think that is partly due to a displacement effect from the United States down to Australia. Certainly, I think overseas study is still important to those Indonesian families who can afford it.

We saw an increase in business skills applications, which we were watching closely in terms of whether it was a suggestion of any flight of capital or flight of the middle class. In fact, we think that blip was probably far more pragmatic in that, because of exchange rate variations, if you got your application in by the end of January, it cost you a lot less to apply than it did in February, and February and March seemed to have gone back to normal levels. So there is nothing there at the moment that would say we would assess the risk as high of seeing movements coming forward.

We always have contingency plans in terms of what happens if something does occur. We have a legal framework which can cope with large scale movements, as long as we can resource them and, clearly, we have to be in a position to resource them. As for detention capacity, the question of whether detention is the right approach is always a difficult issue. We have in the past engaged contingency plans and opened up temporary settings in places like the Curtin air base. Again, we would probably rely on Emergency Management Australia and the cooperation of the defence forces and others to meet any contingency plan. Certainly, those plans are always on stand by. We also are always on

stand by with the coast watch services in respect of increased surveillance if we get evidence. So, yes, contingency planning is taking place. There is a lot of monitoring. There are a lot of indicators that we are watching which we believe would tell us that something is happening, and the risk that anything would happen or anything is happening at the moment would have to be assessed as low.

Mr HOLLIS—Did I hear you correctly, Mr Sullivan, when you said that there are 100,000 visas in Indonesia?

Mr Sullivan—I will get you the exact number.

Mr HOLLIS—I thought visas were just issued for a set period and they were quite a performance to go for. I cannot believe there are 100,000 visas floating around in Indonesia, and that 100,000 people from Indonesia could at any time lob up in Australia.

Mr Sullivan—They currently have the right to. That is a combination of people. A short-term tourist visa is a visa which is valid for up to three or six months for multiple entry to Australia. That would include a person who has come down for their two-week holiday in Sydney and gone home, but that visa is technically still usable to re-enter Australia. Against that, you then have a large number of Indonesian business people who have long-term business entry visas. They, again, allow them to enter Australia for short terms to conduct business and then return. It is technically a usable visa. So the numbers are large in terms of the fact that the tourism numbers from Indonesia are large, and that presents a technically available means of entry to Australia if they wish to take it up.

Mr HOLLIS—You mentioned the people from Somalia. Were they on a charter? Can you explain to me this air movement that you were talking about? Are people hiring planes now?

Mr Sullivan—No, they came on a Qantas plane. It was a fairly elaborate scam—that is the best word for it. When we move refugees out of Africa, we engage the services of the International Organisation for Migration—the IOM—to organise the movement. The movements occur in groups. They are identified as an IOM movement. They buy bulk tickets through IOM, generally through Qantas. This group posed as an IOM managed group of people and, with fraudulent documentation, they managed to get themselves onto a Qantas plane, looking like such a group, and they got themselves to Sydney.

Mr HOLLIS—And how many of them were there?

Mr Sullivan—There were 22.

Mr HOLLIS—So most of the illegals by air come on an ordinary flight?

Mr Sullivan—A regular air service.

Senator BOURNE—I have a couple of questions. Firstly, can you tell me what sort of regular contact you have with NGOs, both in Australia and in the region, if there is any?

Ms Godwin—In terms of NGOs in Australia, we have had now for a number of years what is called an IG-NGO—an intergovernment-non-government organisation forum—which meets once every three months. It includes UNHCR, us, DFAT and a range of non-government organisations in Australia with an interest in refugee matters—organisations such as the Refugee Council, the Council of Churches and the Catholic Migration Office. That is a longstanding arrangement and has been used over the years for both information exchange and policy development processes.

We also have a formal liaison meeting with UNHCR about once every three months which is separate from the IG-NGO. We participate, as we mentioned in the opening statement, in the EXCOM processes of UNHCR. Non-government organisations also participate in those, particularly the main EXCOM meeting in October each year.

Mark has just reminded me of the resettlement consultations that happen once a year. That is the tripartite consultations that we mentioned. Non-government organisations participate in those as well. Posts regularly, on a bilateral basis in the field, liaise with UNHCR, Red Cross, IOM and other non-government organisations and we often facilitate the liaison. We recently had a visit of the Australian Council of Churches to our post in Nairobi. We facilitated their meeting with members of our staff at the post and also visits in the region. So we have got a lot of contact both formal and informal.

Senator BOURNE—Thanks. The other thing I wanted to ask about is the UNHCR. I was at a conference that Philippa was addressing a little while ago and it seemed to me that what you were saying at the conference in answer to a question—and correct me if I am wrong—was that you work closely with UNHCR in both the identification and the preliminary assessment of refugees. I was quite surprised that there were a few people there who were just distrustful of UNHCR. I thought at the time, and I would appreciate your ideas on this, that I could not see any other way that we could initially identify and assess refugees all over the world if we did not use the auspices of the UNHCR. Is there any other way we could do it? Also, do you periodically check on the UNHCR posts themselves just to make sure, in DIMA's own collective mind, that they are doing the right thing and they are doing things to a standard we would agree with?

Mr Sullivan—It is important to understand that we have to rely on the UNHCR offshore, particularly in terms of our refugee program. UNHCR performs the role for mandate refugees. We do not then just pursue and say, 'UNHCR has mandated this person as a refugee.' It is an Australian selection process. From those mandated refugees, we select refugees for the Australian program. So we have to work together and we have to be monitoring exactly what UNHCR has been doing. I think UNHCR has one of the highest reputations of a UN organisation. I think that is partly because it works so well

with governments. It is a pragmatic organisation at the same time as it is upholding the convention.

Its close cooperation with governments sometimes sees people suspicious of it as to whether it is a tool of government. I think UNHCR is always working hard at its role of saying that it serves governments and services governments while at the same time saying that it is the convention that drives them. It is why I think UNHCR have been working hard to include the NGOs in more and more of their executive fora. The resettlement committee last year was the first time the NGOs were invited into the process, which is really where the UN and governments talk about where the resettlement priorities of the UN are, where there are significant situations where resettlement is not seen as the appropriate solution. They get the chance to see how that works and comment on it.

I think we will see those sorts of things build up. I think deep down people do trust the UNHCR, but it is this relationship. At the moment certainly there is some suspicion of the relationship between UNHCR and ourselves. They criticise Australian government practice or departmental practice. They do not see UNHCR criticise it, therefore they think, 'Why aren't they?' I think it is something that has to be worked on.

Senator BOURNE—Do we check on UNHCR posts in far-flung places where we are not ourselves?

Mr Sullivan—Yes. We do, and we do at all sorts of levels. We go in at the post level. This minister and previous ministers before him have visited more UNHCR posts than they have visited our posts and get an assessment of what is going on at the UNHCR post. The only time we have formally sought to do any real review of the UNHCR process was on Galang and some of the allegations there. What happened out of that was confirmation of what was a very difficult UNHCR process that worked as well as it could have worked.

Senator BOURNE—Yes. I remember going to one myself in Vietnam on a delegation. It seemed to me to be working very well, but what would I know, but it did seem to me to be working very well. So I was quite surprised at that statement. Thank you.

CHAIR—In relation to one of the ways it seems to me you can check on the UNHCR, I refer to when the committee was in Hong Kong last year and obviously there were a lot of Vietnamese going back to Vietnam. From memory some of the NGOs sent people back to Vietnam not only with particular groups going back but went back and visited people who had gone back previously to see how they were going and so on and so forth. That was a good way of, firstly, checking that the system was working and, secondly, making sure that UNHCR were doing the right sort of thing as well. Do I infer that you want the committee to recommend to the minister that he visits your posts more frequently?

Mr Sullivan—No, he sees plenty of our posts. I do not need that one.

CHAIR—Your submission was very comprehensive, as was your opening statement, so I only have one last question. You say that you seek to ‘encourage countries in the region which are not signatories to the refugee convention to sign the convention’. How do you go about that? Do you send your representatives out with a bludgeon or do you have a more refined means?

Mr Sullivan—Slightly more refined. That would be our ultimate objective for countries to sign the convention. There are in the region, however, examples of countries that have never been a signatory to the convention who have played an incredible role with refugees and displaced persons. There is no better example than Thailand. Thailand has never been a signatory to the convention but it has probably hosted more refugees and refugee like situations to the complete satisfaction of the UNHCR—sometimes not to the complete satisfaction but often to the complete satisfaction—than many countries in the region.

We have to remember that almost all those examples I used hosted very large numbers of Vietnamese refugees in the 1970s and 1980s through to the completion of the CPA. How we move towards that ultimate objective and whether we get there is probably not that important, but what we are talking to them about is understanding the issues of displaced persons, understanding the difference between what has been commonly now termed the economic migrant or the person searching for the labour market or searching for a better life as opposed to the person who is fleeing what they view as persecution and the need to look at those situations differently, and countries have responded to that.

We have also used ourselves without saying the Australian system is perfect because we would be the last to advocate that the Australian system is a perfect system. We have hosted many countries to have a detailed look at how Australia goes about its protection obligations. These countries have included the People’s Republic of China, Vietnam and Thailand. That has been an important part, but our major objective is dialogue and the understanding of the different sorts of people movements that we see in the region.

This APC came out of the UNHCR. I remember that at the first meeting the greatest discussion was about do we need such a forum because the region has no people movement crises. It is business as usual; there are lots of people movement—illegal a lot of it and labour market generated most of it. What do we need it for? I think we would not be as well placed as we are now where we have got a potential crisis on our hands to talk to the region had we not started that up in 1996. That certainly is the sort of initiative that we see as getting towards an end objective.

The last thing we say to any country in the region is: 'You must sign the convention.' If a country signs the convention in the end, we would applaud them, as would the UNHCR. It is also very important that the UNHCR is actively engaging with these countries. Again, the ultimate goal is clear—sign the convention. If you ask whether you think the convention will be signed, the answer will be no. But if you ask do you think the country will accept a responsible attitude to displaced persons in refugee like situations, the answer is yes they will. That is what we work towards.

CHAIR—Thank you for that and thank you very much for coming today. If there are matters on which we might need additional information, quite apart from the ones you have already taken on notice, the secretary will write to you. We will send you a copy of the transcript of evidence to which you can make corrections of grammar and fact. Thank you very much indeed.

Mr Sullivan—Just to confirm, I think we have agreed to provide three speeches from the minister and a comprehensive set of detention statistics.

CHAIR—That is exactly right. Thanks very much.

Mr Sullivan—Thank you.

Resolved (on motion by **Senator Bourne**):

That submission No. 30A by Anthony Bourke, dated 7 April 1998, be received as evidence to the inquiry and authorised for publication.

[12.00 p.m.]

COLEMAN, Mr Ben, Director, Papua New Guinea Section, International Policy Division, Department of Defence, Russell Offices, Russell, Australian Capital Territory 2600

COSTMEYER, Mr Robbie, Director, Strategic Trade Policy and Operations, Industry and Procurement Infrastructure Division, Department of Defence, Campbell Park Offices, Canberra, Australian Capital Territory

HURLEY, Colonel David John, Director of Preparedness and Mobilisation, Australian Defence Headquarters, Russell Offices, Canberra, Australian Capital Territory 2611

KELLY, Lieutenant Colonel Michael, Directorate of Operations and International Law, Defence Legal Office Canberra, Department of Defence, Canberra, Australian Capital Territory

CHAIR—On behalf of the subcommittee, I would like to welcome officers of the Department of Defence to our hearing this morning. The subcommittee prefers that all evidence be given in public but, should you at any stage wish to give any evidence in private, you may ask to do so and the subcommittee will give consideration to your request. Although the committee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and, therefore, have the same standing as proceedings of the House itself. I invite you to make an opening statement before we get down to questions.

Mr Coleman—We are here basically to answer your questions and to expand on any areas that you might feel need further explanation. As we stated in our brief submission to the inquiry last August, Defence does not have the particular role of the Department of Foreign Affairs and Trade in managing the government's human rights policy. In these matters, we follow the lead of Foreign Affairs as outlined in the DFAT white paper 'In the national interest'.

Defence's core business is about preventing or defeating the use of force against Australia and its interests. Nevertheless, Defence is a player in the international arena in various ways and it does contribute to the promotion of human rights objectives through a number of activities. For example, Defence is involved in humanitarian operations overseas, in providing training for the Australian Defence Force and regional militaries in international humanitarian and legal standards, and in the control of the export of defence and related goods.

Turning briefly to the first of these, in recent years Australian governments have often faced decisions about the deployment of ADF elements to more distant parts of the

world to undertake humanitarian operations, such as those in Somalia and Rwanda. While Australia has few direct strategic interests at stake in these situations, the government's decisions to deploy ADF forces have been based partly on a sense that we have humanitarian interests in helping to relieve and alleviate these situations.

Over the past year, we have made a number of significant contributions to humanitarian relief efforts and to a lesser extent UN activities in the Asia-Pacific region. These include: the ongoing provision of two ADF engineers to the Cambodia Mine Action Centre, which operates under UN sponsorship; providing drought relief assistance to Papua New Guinea—the ADF aspects of that have recently concluded; contributing to a truce monitoring group in Bougainville; and the recently announced drought relief operation in Irian Jaya. Colonel Hurley will be able to speak in more detail, if required, on these aspects.

Turning to the second area, humanitarian law with an emphasis on the law of armed conflict is an integral part of a comprehensive training approach for all ADF personnel. Such training is included in basic military courses, in specialist legal and operational courses, in single service command and staff college courses and in higher staff college courses at the Joint Services Staff College and the Australian College of Defence and Strategic Studies. Regional personnel participating in these courses receive the same periods of instruction regarding international humanitarian law as do their ADF counterparts. There is a strong attendance at these courses by students from the Asia-Pacific region. Typically, in any year about 150 foreign students attend these types of courses. Lieutenant Colonel Kelly will be able to provide more detail on the actual content of this type of training, if required.

These two areas provide for Defence to make a positive contribution towards promoting the government's human rights objectives in the Asia-Pacific, but Defence also has a role in protecting these objectives through controls on the export of defence and related goods. The government, through the Department of Defence, controls the export of military, military-related and dual-use goods through the Customs (Prohibited Exports) Regulation 13E. Applications for exports are considered on a case-by-case basis in accordance with published guidelines for exporters, the most recent being published in November 1996. Included in these guidelines are five criteria for denial of an export application, one of which is of relevance to this committee. It states:

Exports of military goods will not be permitted to governments that seriously violate their citizens' rights unless there is no reasonable risk that the goods might be used against those citizens.

Mr Costmeyer will be able to speak at more length, if required, on this issue.

To conclude, while DFAT has the lead in managing the government's human rights policy, Defence acknowledges that it does have a role to play in supporting these human rights policies. That is really all I have to say as far as an opening statement goes, but I am happy to take any questions you might have.

CHAIR—Thank you very much indeed, Mr Coleman. I might kick off and ask a question. I am interested first of all in the training aspects. This is probably Lieutenant Colonel Kelly's area. I spent 24 years in the services in Britain and I am aware that there is nothing more dangerous than a former serviceman 20 years on—it is 20 years since I left—forming opinions on what goes on in the forces, so I am going to ask the question so that I get an up-to-date picture.

Certainly, in the 20-odd years service that I did, both in the ranks and subsequently as an officer, including staff training and so on, human rights certainly did not rank very high on the agenda at all. I served in places like Singapore and in the 1950s during the Malayan Emergency, Cyprus and so on. So there were some real live actions about.

I am interested in how you actually conduct some of that training. Perhaps you could elaborate a bit there. Given that we have been told that a fairly large component of overseas personnel attend those courses, what is their reaction to that training? It may be something which, if you like, Australian officers would accept fairly readily, but one would suspect that may not be the case of people from, say, Indonesia, the Indonesian military, ABRI and people like that. Could you elaborate on that.

Lt Col. Kelly—As far as the ADF is concerned, our training really has reflected our approach to complex operations since the end of the Second World War in that involvement in internal conflicts often involves having to build a close relationship with the population that you are working with. That philosophy has led us to embrace using international humanitarian law and human rights regimes as a tool in facilitating that building of the relationship.

Our focus has begun from the sharp end up in that we work with the soldiers in exercising them through practical scenario based training using simple regimes to determine when we are in a straight armed conflict situation or when we are in one of these complex operations when human rights issues become more important. We found it very useful to work them through those practical scenarios and give them a chance to ask questions of us and to deal with those issues.

We then stepped back from that also and looked at the way in which we plan and conduct the operations through our exercises and engagement with our allies. We developed processes and planning procedures that ensure that these issues are factored into the way we do business. For instance, we have a Defence Force publication, ADFP/37, which deals with the guidance the commanders have to conduct operations involving laws of armed conflict issues and taking those factors into account, which will include, for example, preparing what we call a law of armed conflict profile. That will analyse an area of operations in terms of all those issues that we have to take into account—civilian concentrations, protection of property and those sorts of factors. That will involve input from intelligence and the operational staff of the headquarters to produce that guideline for the commanders and subordinate units and formations.

So having then taken that practical approach, we have worked back further from that to how we can improve our institutional training. To date that institutional training has mostly been in the form of lecturing for brief periods of time, but we intend to try to take that to another level to the stage where all of these factors of training are embedded into every activity or approach that we take in the ADF. What we are really aiming for is achieving realism in the training. Real life is not a fire and movement exercise on an open range; you are always going to come in contact with people or populated areas. So we are trying to ensure that that is factored into the training.

Two dimensions of that are the live training I have spoken about and the exercises. Another dimension we want to take it to is exploring the possibility of using computer generated simulation training, so we can perhaps construct virtual environments that we can immerse the soldiers in and present them with situations where we will test not only their marksmanship but also their target selection and their decision making processes. We also want to take that to the constructive level, to the command and control level, so we can simulate an area of operations, particularly these complex operations where we will have NGOs, agencies, civilian movement in terms of refugees and displaced persons and perhaps factions and their changing positions and alliances. So we are looking to take it to another level in that respect.

In terms of the regional engagement, we do engage with these personnel on these courses, in particular things like the peacekeeping seminars. They are an opportunity to have a lot of discussion with these people. We are hoping too that, as our defence relationship matures in terms of the exercises we conduct with them, we can insert and factor into the exercises scenarios that will help to build up the discussion of those issues and help them to move along with us in coming to some common ground.

We also engage in regional discussions, exercises and conferences with them. I have just returned from a conference at Camp Pendleton in the United States where a lot of regional participants were present and we presented our approach to human rights in complex operations. There was also a large conference sponsored by US Commander in Chief, Pacific, in Victoria, Canada, where all our regional neighbours were participating. So that is another dimension in which we engage.

CHAIR—What sort of reaction do you get from people from ABRI?

Lt Col. Kelly—Often they are constrained to some extent in how much they can exchange on those sorts of issues. But quite often, as you go through a course and spend a period of time with them, you can engage in some quite frank and open discussions on these issues. I think it is reflected in the way a number of our partners go about their business these days—they are taking those factors more into account.

CHAIR—Thank you for that. I think, Colonel Hurley, you are the expert in terms of Bougainville and Irian Jaya. Could you give us an update on what is happening in Irian

Jaya, because that is very recent, and also the latest developments from the peacekeeping operation in Bougainville?

Col. Hurley—My understanding of what will occur in Irian Jaya is an operation similar to the drought relief operation we conducted in PNG and which will provide the air lift means to deliver that aid. I understand it will be done in close cooperation with ABRI. I am not aware of AusAID being involved. They have not been involved in that sort of detailed planning, but I believe that is the intent.

CHAIR—I was in the highlands of PNG last October at the start of the drought relief operations, almost in the first week. Clearly, there was a very heavy civilian involvement in that situation, but what you are suggesting in Irian Jaya is going to be much more in collaboration with ABRI.

Col. Hurley—I believe so. Again, it is not an area I work in, but that it is my understanding of it.

CHAIR—Mr Coleman dobbed you in.

Mr Coleman—I do believe that AusAID will be deeply involved in the Irian Jaya operation as well. Defence will be essentially used to provide particular assets which we happen to have which are particularly suited to air lifts and those sorts of things.

CHAIR—What about the Bougainville government?

Col. Hurley—I have been involved in Bougainville twice. Firstly, I was involved in the 1994 Operation Lagoon peace talks under Prime Minister Chan's auspices. I was the peacekeeping liaison officer to the PNG government to set up those peace talks. Secondly, in Bougainville, I was involved with a Kiwi initial reconnaissance party that went up there to determine whether we would be unarmed or armed and how we would approach the mission. Again, my understanding is that presently, as you would be aware, it is an unarmed mission. Its intent is to really hold the line in terms of the truce management until the leadership there is capable of coming together to resolve the more difficult issues.

In terms of a humanitarian operation, that really has not been the emphasis of the operation at the present time—though obviously where need is recognised and the capability exists, that is attended to. Again, the future direction of humanitarian support from the ADF's point of view is still being determined. We have determined there will be a peace monitoring group, but what form it will take and what its particular tasking will be, I do not think has been determined yet. It still is to be discussed.

Mr Coleman—Obviously, AusAID have the lead role and have large sums and programs in train to deliver the humanitarian assistance through reconstruction and re-establishment of policing on Bougainville.

CHAIR—Certainly, my understanding is that, unless there is some very visible improvement in living conditions, access to education and things like that so that peace can be seen to be advantageous to the population, that will merely give some fertile ground to those who may not be supportive of the peace—Mr Ona is probably the leading advocate there—and the peace might then unravel. So I think that sort of tangible benefit is quite important, although I read in the media of recent days—and you might be able to update this, Mr Coleman—that there are moves that Mr Ona is in fact starting to get on board. Is that correct?

Mr Coleman—I understand that he is. There is talk about him engaging in broader discussions with some of the less hardline elements in the BRA. I would not put it as more prospective than that at this stage, but it is obviously something that we look at quite closely.

CHAIR—While we are talking about PNG, Mr Costmeyer, could you talk to us about the export of arms to PNG? It seems to me over the years as one has watched the news and so on—and certainly one is not suggesting it at the moment—there have been quite a few instances where PNG forces have used equipment which was likely sourced from here in less than direct conventional military terms. It has been used not just in Bougainville but against others in the civilian population. Can you comment on how our policy may or may not have been effective in that respect?

Mr Costmeyer—It has been fairly effective in a sense that we have not exported any defence goods to Papua New Guinea for quite some time. Certainly, in the last 18 months or so, there has been nothing going. There was a shipment of some arms going to them from Israel recently which was to have been routed through Australia. We denied them that access but it went to them via a different route. That is the closest we have come to any arms being exported to PNG.

Mr Coleman—Australia is not the only source of arms of course for PNG.

CHAIR—I have a final question, which I will throw open. Obviously, Indonesia is looming large on the horizon at the moment, given the economic meltdown and the potential for political and civil uncertainty, instability and so on. Could you give us an update on your anticipation of likely problems arising out of the Indonesian situation? Are we expecting mass movements in this direction? What preparations have we taken or not taken? Can you tell us those sorts of things?

Mr Coleman—I can give a general response to that. If you feel you need more, we would be happy to take it as a question on notice. Obviously, the situation in Indonesia and more broadly in the Asia-Pacific is one we watch very closely. It is one where we seek to coordinate very closely with other relevant departments—particularly the Department of Foreign Affairs and Trade and also those departments that would be in the lead of the government's response to any kind of refugee movements, for example.

If the government required us to, Defence would be available to support any broader government response to any mass refugee movements, if that were to occur. But at the moment, although it is a situation which is worthy of close monitoring from Defence's point of view, we are not aware that it is a particularly likely contingency that would require us to go into extensive contingency planning for such an eventuality.

Mr HOLLIS—I have another question on Indonesia which is a little broader than the one that the Chairman asked. It has often been claimed that Australia's reputation on human rights suffers because of the close military involvement with Indonesia. Would anyone care to comment on this?

Mr Coleman—I guess it is a judgment that government makes about the balance of interests that we have in our relations with our neighbouring countries, including Indonesia. Our human rights objectives are certainly something that Defence acknowledges are very important to government. We certainly seek to be supportive in that limited way that we can be supportive through our activities with regional countries. We also have other interests in developing good relations with our neighbouring countries, not least strategic interests which are served by having good, close relations.

As far as the military to military contact goes, that, besides serving those strategic interests, provides some opportunities for gradually seeking to, over time, influence and reinforce positive attitudes through such things as training and exposure to our values and our standards so that it provides an opportunity for other regional military personnel to become exposed to that and be aware that there are, in some cases, different attitudes and different standards.

Mr HOLLIS—It is interesting. Things are evolving very quickly in Indonesia. None of us have a crystal ball and none of us can see what the future will be. I note what you say. Indeed, previous witnesses have also said that they are monitoring closely. But the answer—and I do not want to be offensive—you gave is a typical answer that governments always give, whatever political persuasion, when we talk about Indonesia. This business of because of the close cooperation between the military or whatever it is and the fact that they will be influenced by our good governance or whatever it is seems to have gone by the board a little in the last three months. Our policy of this close cooperation and the influencing of the Indonesians has either been a great failure or has gone by the board or, as the government would say, there has been a slight blip in the relationship.

It seems to me that every day I read the newspapers more and more people are disappearing in Indonesia. Given the role of the military and the government of Indonesia, it seems to me that, if we were going to influence the Indonesians by quite diplomacy and by example, this policy, especially in the last three months, has been a miserable failure.

Mr Coleman—I guess the government does look for opportunities to raise its concerns. Mr McLachlan was up there yesterday and did raise it with General Wiranto, the chief of ABRI. He received assurances that, as far as General Wiranto was concerned, they were taking active measures—

Mr HOLLIS—What, for people to disappear or to find them?

Mr Coleman—No, to handle the situation with restraint. Most of the experts would acknowledge that, over the past few years, there has been a noticeable improvement in the way in which the security forces have managed internal security disturbances in Indonesia. The other option that the government has to deal with is, if the alternative was to close off contact and close off engagement, intuitively, it does not seem like that would be a necessarily very effective response either.

Mr HOLLIS—I appreciate that. It is a difficult situation that has to be handled with skill.

CHAIR—Mr Hollis acknowledges it happened under his government.

Mr HOLLIS—I was not having a shot at the current government. Of course, I am a member of the Labor Party. I do not think our record in regard to Indonesia is anything to boast about, as indeed the present government's is not. That is a personal view rather than the view of the committee.

CHAIR—I think it leads though to the reports and allegations that ABRI has been involved in the political process, political disappearances and things of that sort. Clearly, we and others are trying to establish the facts of that situation. It really prompts the question as to how close the relationship is between our defence forces and ABRI not only now but over the last two or three years. What influence are we able to exert apart from the training that Lieutenant Colonel Kelly was talking about earlier on? Are our contacts sufficiently close that we really think we are making any impression there?

Mr Coleman—I think our relationship has been improving particularly dramatically since the early 1990s, but it is still in its growth phase. No matter how close a relationship—whether you compared it with other relationships that we have that are of much longer standing or duration, for example, with New Zealand or the United States—a close relationship does not give you necessarily complete control over every action and every policy of the other government. They are after all sovereign governments. But in the case of ABRI, we are quite happy with how that relationship has been developing, though obviously there is still room for improvement.

CHAIR—I do not think we are suggesting that the New Zealand government will use the New Zealand military to knock off its political opponents.

Mr Coleman—No, but the point I am making is that a close relationship can serve many important policy goals without necessarily giving you complete control over another sovereign government.

Senator BOURNE—There were reports at the end of March that the New Zealand government may be wanting to downgrade fairly dramatically their commitment to Bougainville. I take it Australia is still very committed to the truce monitoring and peace monitoring. If New Zealand did downgrade, would we upgrade ours, would we put more people in? Do we know at the moment?

Mr Coleman—All the details have yet to be finalised. We are working very hard on that, particularly given the very limited time until the expiry of the truce monitoring group on 30 April. But certainly the government is very committed to supporting the current peace process on Bougainville. It is hard to see many alternatives to Australia providing the necessary logistics and other support that until now New Zealand has been providing in the truce monitoring group. If I had to hazard a guess, I would say that the planning is proceeding on the basis that Australia will make up the difference in the peace monitoring group from 1 May. But there are details still to be resolved.

CHAIR—I have a feeling that, in the evidence we got from DFAT and certainly in public statements from Minister Downer, we have indicated that we will effectively fill the void that New Zealand is going to create by its withdrawal. Its withdrawal is largely one, as I understand it, of their defence forces who were supplying a lot of the personnel having an even bigger financial challenge on their plate from a budgetary point of view than our defence forces have and that is really why they have withdrawn. We are going to fill the void.

Mr Coleman—That is our view too. In talking about details to be resolved, I do not mean to suggest that in any fundamental way Australia's commitment is in doubt. I am talking about whether the last communicator is provided by Australia or somewhere else.

CHAIR—I find it very interesting—and this is a comment rather than a question—that a lot of our people that we are going to put in there, as I understand it, will be women because from a cultural point of view a lot of the women identified better with the local community.

Mr Coleman—That is quite true.

CHAIR—It is a matriarchal society, in other words.

Mr Coleman—The Defence contribution to the truce monitoring group and to the rollover peace monitoring group has essentially consisted of support to the logistic support element and support through providing actual civilian monitors into the truce monitoring teams. Defence has provided five civilians for the truce monitoring teams. Typically, one

or two of those have tended to be women as well.

CHAIR—Thank you very much indeed for coming this morning. It is appreciated. The clock, unfortunately, marches on as always. If there are any other matters on which we might want additional information, the secretary will write to you. We will send you a copy of the transcript of your evidence to which you can make corrections of grammar and fact. Thank you very much indeed for coming this morning. It was nice to see you.

Resolved (on motion by **Mr Hollis**):

That the document *Annual Report: Exports of Defence and Strategic Goods from Australia* 1994-95, 1995-96 and 1996-97 produced by the Industry and Procurement Infrastructure Division of the Department of Defence, dated February 1998, be received as evidence to the inquiry into the regional dialogue on human rights and be authorised for publication.

[12.33 p.m.]

BARKER, Mr Bill, Director, Human Rights International Pty Ltd, 20 Trunketabella St, Potato Point via Bodalla, New South Wales 2545

CHAIR—I welcome Mr Bill Barker to the subcommittee's hearings this morning. The subcommittee prefers that all evidence be given in public, but should you at any stage wish to give any evidence in private you may ask to do so and the subcommittee will consider your request. Although the committee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as proceedings of the House itself. I now invite you to make an opening statement before we proceed to questions.

Mr Barker—In the capacity of director of Human Rights International, I have been quite extensively involved in relations with Asia-Pacific countries in the area of human rights. I do not want to make an extensive opening statement but simply point out that my background includes 22 years in the Department of Foreign Affairs and Trade, much of which was directly related to human rights work. I had 2½ years as director of the Human Rights and Indigenous Issues Section. For four years I was handling human rights work at the Australian Permanent Mission to the United Nations in Geneva. I had previously had experience in relation to specific countries such as those of Indochina, Latin America, China, Korea and some other places.

The main point that I sought to make in my written submission to the subcommittee and which I would like to emphasise here is that human rights dialogue is a very useful means of promoting human rights in the region. However, it is my view that not nearly as much is done on this as should be done. Given that everybody acknowledges the value of human rights dialogue, one would expect that logically and practically human rights dialogue ought to be going on on a pretty frequent basis. However, that is not and I do not think ever has been the case. I think it would be desirable from the point of view of the subcommittee's terms of reference and the inquiry if more attention could be given to this question.

CHAIR—You said in your submission that Australia's record on serious human rights dialogue is quite weak. Can you give us some examples of where we may have done some good things and had some successes or where we might have done more than we actually have done in particular situations?

Mr Barker—Australia's human rights dialogue over the last 10 years or so has comprised two parliamentary delegations to China, a parliamentary delegation to Vietnam and a visit by high level officials to China. Each of those was a quite substantive contact. They were only four contacts in relation to only two countries. Apart from that, what you might call dialogue has been pursued by government officials, DFAT officials. For some years, maybe about five years, in the late 1980s and early 1990s, it was the practice for a

reasonably senior DFAT official to go to the UN Commission on Human Rights in Geneva and on the way stop off for a day or two in various countries between here and Geneva. Those countries included on various occasions Indonesia, India, Malaysia, Iran and Russia. Those contacts were not all that frequent. It happened only on an annual basis. The officials did not necessarily visit the same country from year to year. It was not a particularly good time to go because very often the people they needed to see were actually already in Geneva or were preoccupied with the Geneva agenda.

The rest of it has been largely left to embassy officials—the ambassador or more junior embassy officials. The problem there is whether or not they know anything substantial about human rights is pretty much a hit and miss affair depending largely on their background. Generally speaking, they could not be expected to know a great deal about the international human rights system as such and the international human rights agenda. So when you compare what is done on the issue of human rights and what is done on issues such as trade, the environment and other issues, it is pretty thin stuff. For the last five years—certainly since 1994—the parliamentary delegation to Vietnam and the officials delegation to China have constituted the total of our substantive human rights dialogue.

Have we had successes? In relation to China, I think the first two visits were very useful in bringing it home to China that what happened in that country was under scrutiny. In Vietnam, it was perhaps somewhat less so, but it still conveyed a point. I think the officials' visit to China last year was also useful. In my view, it had some shortcomings but, in the long term, it will be desirable to establish a process of technical cooperation with China, and that visit contributed to getting such a program under way.

When you look at many other countries in the region, you would have to say that really nothing is happening. The problem with all of this, too, is that we tend to use this so-called dialogue when we do not seem to have any other weapons in the armoury and when we do not want to use a more, let us say, robust form of interacting with our neighbours. In relation to China, for example, it is more comfortable to send a delegation to discuss human rights than it is to co-sponsor a resolution in the UN Human Rights Commission because the Chinese tend to get a bit upset about things.

There are many other countries which are working towards improving their human rights record, where there is a very strong governmental interest in doing better and where perhaps dialogue might be more fruitful. If we look at countries like Thailand, the Philippines and some others in the region, I do not think we really discuss human rights issues at all. We may on occasion make representations about a specific situation but that, in my view, is a different matter.

CHAIR—So would you say, for example, that Australia's support of the regional human rights dialogue process that is being undertaken at the present time, that is embracing several countries and that is gradually growing is not a meaningful activity for

the government to attempt?

Mr Barker—You are talking about the Asia-Pacific Forum and the discussions that are taking place in that context?

CHAIR—Yes.

Mr Barker—Sure, I think that is a very important activity. However, that is essentially a dialogue among national human rights institutions, rather than among governments.

CHAIR—It has been paid for by the government, so it is quite clearly supported by the government.

Mr Barker—Do not get me wrong. I think that is very important, but it does not constitute government to government dialogue. I think it is a very useful way of building national institutions and strengthening national human rights infrastructures, but sometimes these national institutions do not have very close relations with their own governments. In addressing some of the problems that arise in international human rights issues, it is important to have government to government contact. That is where there are gaps. There are quite a lot of contacts happening in other areas and, certainly, national human rights institutions are perhaps one of the most prominent areas where there is a lot of contact between Australia and other countries. But I would not say that the dialogue is wholly funded by Australia. The most recent meeting in New Delhi was funded by the host institution, the National Human Rights Commission of India, which provided for all the in country expenses of those participating, and the United Nations, which provided for the international air fares of those going.

CHAIR—The Secretariat is funded by Australia.

Mr Barker—The Secretariat is funded by Australia but, in terms of bringing people together, that was not the major part.

CHAIR—So you are saying in all your years working in DFAT that, when foreign ministers, for example, went overseas and raised human rights issues at the highest level, you would really categorise that as odd bits of lobbying in specific cases, rather than an ongoing structured dialogue?

Mr Barker—I would not want to dismiss it as being of no value—far from it—but the pressure tends to arise in situations where there are serious problems and governments are under pressure domestically to raise Australian concerns. That is important. But the kind of environment in which those exchanges take place is often a bit on the confrontational side. The government concerned tends to be on the defensive and is eager to explain its side of the story and that kind of thing.

But if you look at the broader international human rights agenda—which ought to include discussions about observance of international human rights instruments, about wider adherence to international human rights instruments, about understandings of such concepts, as economic, social and cultural rights and the right to development, and about how national human rights infrastructures can be developed—these things tend not to get any coverage during those discussions because it is always about how to express Australia's concerns about the latest allegations of human rights violations. It is unusual in that situation for a more ongoing substantial dialogue to develop.

CHAIR—But do I understand you to say that, for example, with China, it would be better for this country and we would have more influence on China and on the international community if we subscribed to UN resolutions condemning China's human rights record as opposed to doing what is now going on, where we do not do that but instead try to engage them in dialogue and develop that relationship? For example, they are talking about bringing Chinese officials here to develop governance, structures and so on, and so forth.

Mr Barker—I think it is very important that this kind of cooperation should be taking place, and I think it is a very positive thing that the government has become involved in this. I think it is very good that the delegation of officials went there last year and that there was a follow-up aid delegation later in the year. All of these things are very positive.

I have been involved with the human rights situation in China since 1988 when I went to Geneva. I was in Geneva at the time of the Tiananmen Square massacre and the various international reactions that followed. I am firmly of the view that the continuing international pressure—which began as soon as the Tiananmen Square events took place and which continued for many years afterwards—was instrumental in bringing the Chinese to take actions which would promote better human rights observance of its citizens.

I do not subscribe to the view that all of that activity was a waste of time because no resolution was ever adopted. In fact, those at the working level—and I do not think they were just sort of rationalising things away—used to take the view that it was probably better that the resolutions did not get adopted because, when resolutions do get adopted, you have to figure out what you do next. We have had resolutions on Indonesia in the UN Commission on Human Rights which have not really had any particularly noticeable effect on the ground, and the question is 'Well, what next do you do? Do you have a tougher resolution, or what?'

But in the China case, bringing this back to the commission every year—I will not say it forced the Chinese but it certainly led the Chinese to give continuing attention to how their human rights performance looked overseas. I think that sort of activity going on internationally, the scrutiny that China was getting from various countries around the world, had a lot to do with the greater restraint that has been evidenced since 1989 in

dealing with internal security issues and their decisions to move towards accession to the international covenants. You have to have both things going, in my view, and there is always an argument about what the right balance should be.

Senator BOURNE—In your view, do you think the institution of the human rights organisations in the region—and there are several that hopefully are being made up at the moment and some that are working, of course—is progressing at a reasonable rate; and do you think that in general they are working reasonably well and/or getting better?

Mr Barker—The Human Rights Commissioner Chris Sidoti may have spoken to you about his view of what is going on there. In my view, the national human rights commissions which have been established in the region are doing much better than people would have expected. Very often their establishment was greeted with some scepticism or cynicism by human rights workers in the area.

But what has happened in each case has been that, first of all, you have some sort of government action to give status to the promotion and protection of human rights, which I think is very important; and, secondly, in each case, a number of good people—people with strong human rights backgrounds and credibility—have come together as commission members. Once you get people like that in that kind of position, they want to do a good job. Sure, you can always point to weaknesses in this, that or the other area, or that perhaps they should have done this, perhaps they should have done that. But over all, I believe that each of these commissions is doing considerably better than had been expected.

I was in Indonesia talking to the human rights commission there, both earlier this year and last year, and I was quite struck by the regard in which Komnas HAM, the Indonesian Human Rights Commission, is held among the community in Indonesia. There are many other commissions which are on the way to being set up—in Bangladesh, Thailand, Fiji, Papua New Guinea, Nepal and Mongolia—and really the whole process is moving now quite rapidly. Australia is in a very good position to assist because we are one of the few countries where there is a repository of expertise in this field. I think it is a very encouraging and positive thing for the future in the region.

Mr HOLLIS—I am not disagreeing with what you have said about the record. But is there any country that has got it right compared with this, if you like, ad hoc nature of ours? It seems to me that what you are suggesting is a strong continuing presence, not a human rights reaction which occurs as something blows up and the foreign minister then raises the issue at that appropriate time. Is there any country that would be some sort of a model or example?

Mr Barker—People always tend to see things from the point of view of their own country and very often are not particularly interested in what other countries are doing. This happens a lot in the area of human rights, where people continually want to demon-

strate what wonderful things they are doing, and they do not particularly want to be measured up against what other countries are doing.

The fact is that a lot of countries are active in the areas of human rights dialogue. A number of countries have appointed human rights ambassadors. Australia has ambassadors of this kind, a functional kind, in some areas like the environment, APEC and disarmament. But we do not have and never have had a human rights ambassador.

A number of other countries—for example, Scandinavia, Norway, Finland, maybe Sweden—have appointed human rights ambassadors, and they tend to take the lead role in human rights dialogue. This means that, within the system within that bureaucracy, there is a senior-level focal point for the pursuit of human rights issues. That person is also usually the leader of their delegation to the UN Commission on Human Rights and other UN meetings, so they have an opportunity to interact at that international level with other like minded countries.

I think there are quite a few other countries, and I have mentioned Scandinavia. Canada is also pretty strong on human rights dialogue through the process of having specific high-level people who pursue human rights. The United States does also in its own way; but I think the United States is a special case in this and in just about every other field, so perhaps it is not a very good example.

Mr HOLLIS—Not wishing to go on the defensive, you have mentioned the examples of the two delegations to China and the delegation to Vietnam. I venture to suggest that the cupboard is not quite as bare as has been implied. Indeed, this very committee on a delegation to Hong Kong—which the committee members paid for themselves—was in that country for a week, during which time it seemed to me that at almost every meeting the question of human rights was raised. It was raised at the highest level, all the way from Chris Patten, the then governor, down to other officials. There was the visiting of the detention centre and having extensive dialogue there.

I think that week, although the purpose of the visit was to look at the future of Hong Kong, the main priority was very much human rights. At almost every meeting of that committee, the question of human rights was raised and discussed quite extensively, and in quite a forthright manner on both sides. On that delegation were the three people at this table, all of whom have had some involvement in human rights over many years.

Also, with most of the parliamentary delegations that go overseas these days—and it depends especially on the composition of those delegations—it is standard practice to be briefed by the department on human rights issues. One can comment on how good those briefings are, but most of those committees or delegations at least sometimes raise some human rights questions, especially if they are sensitive to the issues. I remember being on a delegation to Indonesia that Chris Schacht led—and I think Vicky Bourne was also on that—during which there were quite extensive discussions on human rights.

So our record might not be as good as it could be. But I would venture to suggest, with respect, that the cupboard is not quite as bare as perhaps you have indicated.

Mr Barker—I would certainly acknowledge all of that, and I would not disagree in any way. I think that type of contact is very important. What I have been focusing on more is what the government actually does in promoting human rights dialogue. My observation over the years has been that we tend to talk about dialogue—and probably the government would want also to play up these parliamentary contacts as a way of making excuses for what it does not do itself, particularly when it comes to spending money on this kind of thing.

I still believe that it would be of value; given that it is widely acknowledged that human rights observance is a kind of foundation for stability and good relations among countries, it would be good if more resources were given. They perhaps should not be given at the same level at which they are given to other issues like trade, the environment or disarmament. But there should be at least some credible level of resources.

CHAIR—As a former officer of the department, I cannot resist asking you this: Australia has actually been somewhat recalcitrant—to use that well known word—about its reporting obligations and responsibilities under various international instruments; we have been years behind in some of our reports. Can you comment on what you regard as the reasons for the delays in those reports?

Mr Barker—It can be a difficult matter. However, I do not believe that there has ever been a strong sort of political insistence that these reports be in at a high standard on time. Consequently, little resources have ever been devoted to this.

I used to struggle with this when I was in the Department of Foreign Affairs and Trade. Other issues were always coming in, more urgent issues which had to be dealt with more quickly, and doing these reports—which are often massive tasks—always drifted down to the bottom of the in-tray. They would be allocated to one of the more junior officers around the place. But then something would happen and they would get taken off them. Tasks just took a long, long time to undertake.

There was also the question of coordination. The Department of Foreign Affairs and Trade is responsible for preparing Australia's report under the Covenant on Economic, Social and Cultural Rights, which covers a wide area of government activity. So, if you want to get something on education, health or social security, you have to go to the relevant line department. They do not have the faintest idea what you are talking about, and they have to go off to state governments. And down the line it goes. Months later, you get some sort of response back which is totally inadequate and not on the right track. By the time you go back to them, it is all out of date, and you have to start all over again. It really is a bit of a problem.

We did make some efforts to try to move towards having some kind of a unit which would centralise this activity, because it is spread among several departments at the moment. But that was not successful because nobody wanted to allocate more resources to it, and nobody wanted to give up any of the resources they had in order to move it off to some other area. So it is all, in my view, a very sorry tale.

But I think the problem is that it is just not perceived by governments as all that important. By and large, governments—and not just the Australian one; Australia is perhaps starting to slip well down the sort of Western government standard of responding to this sort of thing—take comfort from the poor performance of all other governments on this. They say, ‘Well, we’re not too bad; look at so and so, they’re even worse than we are.’

CHAIR—They do the same with aid. Mr Barker, thank you very much for coming in here today. If there are any other matters on which we might need additional information, our secretary will write to you. We will send you a copy of the transcript of your evidence, to which you can make corrections of grammar and fact. Thank you very much indeed for coming.

Resolved (on motion by **Mr Hollis**, seconded by **Senator Bourne**):

That this subcommittee authorises publication of the evidence given before it at public hearing this day.

Subcommittee adjourned at 1.03 p.m.