

Aiding Human Rights

Submission
by the
Vietnamese Community in Australia (VCA)
to the
Joint Standing Committee on Foreign Affairs, Defence, and Trade
for its
**Inquiry Into The Link Between
Aid And Human Rights**

31 January 2001

I. Introduction

The Vietnamese Community in Australia ("VCA") welcomes the Inquiry, and thanks the Committee for the invitation to make a submission.

Section II of this Submission discusses why there should be a link between human rights and aid. Section III makes and discusses Recommendations.

We have previously made a submission to the Committee's recent inquiry into religious freedom ("previous submission"). As our recommendations were neither supported nor rejected by Committee's report, we have used some as the basis for some Recommendations herein.

As with our previous one, this Submission has been prepared by a VCA Taskforce following community consultation, including publishing pertinent details of a draft on various Vietnamese-language newspapers in mid-January.

II. Why link aid and human rights?

1. *Because aid is an effective means*

Promoting human rights is the right thing to do.

Promoting human rights using foreign aid is logical. The current aid objectives already relate to human rights: reducing poverty, and equal opportunity for women.

To promote effectively, Australia needs means of contact and/or influence. Aid is both.

This Inquiry provides an opportunity to systematically explore and strengthen the link.

2. *Because Australia's international obligations demand it*

Fundamental in Australia's obligations under international human rights instruments is the moral obligation to protect and promote human rights in the world. As aid is one of the important means by which Australia interacts with the world, it is appropriate to use it as part of meeting that obligation.

3. *Because it is a mutual obligation*

By providing aid, Australia is meeting its obligation to behave as a responsible state citizen. Conversely, aid recipients owe the world the obligation to respect international laws regarding human rights, particularly if they are signatories to international human rights instruments.

Put another way, if aid recipient governments want help from donor governments acting as responsible members of the world community, these governments must themselves behave in a responsible manner, in terms of governance, transparency, and human rights.

4. To protect Australia's national interests: security

Authoritarian regimes can engage in unacceptable conducts against citizens' will. They try to build their own support by controlling information flows and mass organisations.

Such conducts as initiating wars or unlawfully interfering with ocean traffic to control international commerce, may endanger Australia's national security.

Democratic states, on the other hand, have internal checks and balances to prevent such conducts.

At present, but not forever, many authoritarian regimes need aid to survive. As their economies improve, they become more economically able to engage in unacceptable conducts. Note that they do not have to be rich, just rich enough to afford a particular aggressive conduct.

Therefore, it is in Australia's national security interest to encourage recipient authoritarian regimes to respect human rights and move towards democracy. The time to do that is now, while they still need Australia.

5. To protect Australia's national interests: economy

Australia's economy may also be damaged by unlawful or unfair acts by authoritarian regimes. Vietnam's recent attempts to artificially control coffee and rice prices by using authoritarian means is an example.

Generally, authoritarian states lack the rule of law, have uncontrollable official corruption, and lack an efficient banking system. They allow labour sweatshop labour for exports to flourish. Their State-Owned Enterprises (SOEs) are more likely to engage in unfair competition to Australian companies. All of these can damage Australia's economy.

6. To use Australia's aid money effectively and efficiently

A recipient which does not respect human rights is also likely to be a difficult aid recipient: Official corruption, unchecked by the courts and a free press, constrains aid effectiveness and efficiency. Civil society is likely to be weak, thus depriving Australia's aid of a potential efficient delivery mechanism. Australian aid deliverers working through SOEs - usually unavoidable because they form a large part of the economy - are likely to be impeded by SOE corrupt and inefficient practices.

Conversely, a human rights-respecting aid recipient is more likely to use Australia's aid better. Hence, less of Australia's money is required for a shorter time.

7. But ..

"Can pushing too hard on human rights lessen Australia's companies' business opportunities?"

Authoritarian regimes may not like Australia protecting their citizens' rights, but Australia can lessen their will and capacity to retaliate effectively. Australia should include transparency as an aid objective, which is highly legitimate but also promotes human

rights. Australia should be firm and resolute, letting it be known that retaliation may bring undesirable results, and will not change Australia's course.

Australia should also work to bring aid-donor communities along with us. Such groups are more effective and less likely to be retaliated against.

"Are we imposing our values on others?"

Human rights are universal, they are not Australia's values alone. Additionally, many offending governments are themselves bound, by being signatories to international instruments.

"Does Australia have the right to interfere in another nation's sovereignty?"

While normally citizens do not enter a neighbour's house without permission, they may enter to intervene if there is a rape or murder there. Similarly, as a state citizen of the world, Australia has every right under the international human rights system to protect and promote human rights.

The need to do so is even stronger where the citizens themselves call for international help.

If we have to intervene, then using a peaceful and effective means such as aid is better than using other means such as boycotts, embargoes, etc.

III. Aiding rights

1. *The existing aid-human rights framework*

The Minister for Foreign Affairs, Mr Downer, in the Eighth Annual Statement to Parliament on Australia's Development Cooperation Program (2 December 1998), outlined a framework for supporting human rights through Australia's aid program (which we reproduce in the **Appendix**).

We welcome it as a formal recognition of the link between aid and human rights.

According to our reading of this Framework, our Recommendations are quite consistent with it.

As the Framework is the fundamental basis for action, it needs to be clear. On the other hand, as it has wide applicability, its language needs to be general. Obviously, a balance needs to be struck. However, we feel that the present wording seems more vague than necessary, potentially reducing its usefulness. A clearer wording would benefit.

2. *Make civil and political rights an aid objective*

Some may theorise that aid, by making people less hungry and enjoy more economic rights, in the longer term helps them to regain civil and political rights. This effectively puts these latter rights on the back seat.

However, this theory is not sound. China has been improving economically for decades, yet the rule of law, democracy, or the end of violent political crackdowns, are not within sight. Singapore has for decades been strong economically, yet Singaporeans do not enjoy some political rights.

On the other hand, countries whose peoples enjoy strong civil and political rights are also economically sufficient or on the road to being so.

It is therefore clear that civil and political rights bring economic rights and reduce poverty. The other direction does not always take place.

We agree with the Framework's First Principle, ie. "*Civil and political rights are ranked equally with economic, social and cultural rights*".

We suggest that to turn this principle into practice, the best way is to make the promotion of civil and political rights a formal objective of Australia's aid.

If this is not done, in practice it will be easy for other objectives to overtake it in practical importance.

If it *is* done, aid will be both more effective (ie., reduces poverty) and efficient (by helping recipient countries to help themselves). Therefore, the VCA recommends:

Recommendation 1 - Make civil and political rights an aid objective

The protection and promotion of civil and political rights be made a formal objective of Australian aid, no less important than the current objective of reducing poverty.

3. *Make transparency in recipient government an aid objective*

Transparency helps to promote human rights, by compelling recipient regimes to be accountable to their people, and to have acceptable governance practices, and to establish checks-and-balance mechanisms. In this sense, promoting transparency helps to promote civil and political rights.

Transparency leads to aid effectiveness and efficiency. For example: If recipient country economic data are unreliable, then Australia's aid may be based on wrong economic assumptions. If Australia's aid money goes through non-transparent state bodies (directly, or indirectly through Australian deliverers), then it may be diverted.

Transparency will also help Australia's trading, an underlying objective of aid. Trading in an open and fair environment is better for Australia's companies.

For the above 3 reasons, the VCA recommends:

Recommendation 2 - Make transparency in recipient government an aid objective

The promotion of transparency in the recipient country's government be made an objective of Australian aid, no less important than reducing poverty or economic rights.

We believe that, if necessary, certain components of an aid program should be considered as *additional aid*, to be used only when certain "critical transparency requirements" are met. In other words, transparency-related conditionality,

This kind of conditionality has already been successfully practiced for some time. For example, the World Bank has already conditioned additional aid to Vietnam on some transparency and governance improvements. This type of conditionality has proven effective in encouraging Hanoi to deliver on its promises.

Therefore, the VCA recommends:

Recommendation 3 - Condition aid on some critical transparency requirements

The Australian Government investigate and identify those transparency requirements (in recipient government) that are critically important for Australian aid to be effective and efficient, and undertake discussions to require such critical transparency requirements to be met before certain components of the aid program are funded.

We make some suggestions below as possible critical transparency requirements:

- **Laws or practices that make it illegal for the media to investigate and report on transparency must be made ineffective**
- **There must be an effort to establish a workable transparency watchdog which is independent from government interference, and a timetable for progressing towards its establishment**

4. *Transparency of Australian aid*

The running of Australia's aid program should itself be transparent because public moneys are involved, and because Australia should strive for transparency if it is to press others for it.

One aspect of this is public information about aid. Presently, getting general, "made for the public" information is not difficult, but getting specific and detailed information is. A reading of AusAID publications, or a telephone call to it, will not reveal, for example, which company has won which AusAID work, whether that company has behaved properly while delivering aid, or what various AusAID audits have found. The VCA recommends:

Recommendation 4 - Make Australia's aid program be seen as transparent

The Australian Government look into ways to improve publicly available information about aid, in particular to satisfy the public that the aid program is transparent and accountable.

Further, we would like to inform the Committee that recently the Bulgarian government obtained the assistance of Transparency International - Bulgaria in a public auction within the telecommunications industry. According to TI - Bulgaria, this was a success in terms of showing beyond doubt that the auction process was transparent. This example of government involving civil society in its transparency efforts may be noteworthy.

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The second aspect of this topic is the need for Australian companies delivering aid to not engage in bribery of foreign public officials. Recent amendments to the Crime Code outlawed such behaviour.

Laws may not be useful if they are not enforced and if those affected are not aware of them. Yet, as far as we have been able to find, there has been no large-scale education attempt. Therefore, the VCA recommends:

Recommendation 5 - Educate aid deliverers about bribery laws

The Australian Government look into ways to educate companies involved in aid delivery, about Australian laws against bribery of foreign public officials.

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A final aspect of this topic is that public funds-based financial assistance to companies involved in exporting or importing should encourage non-engagement in bribery.

An effective means to obtain this result is for entities such as EFIC to establish a standard practice of asking all companies seeking its assistance to pledge that they will not engage in bribery overseas. Therefore, the VCA recommends:

Recommendation 6 - Financial assistance to exporters / importers to discourage bribery

The Australian Government require entities dispensing public funds-based financial assistance to exporters or importers, to formally require such companies to not engage in bribery.

4. *Work with other aid donors*

Australia, as a multilateral aid donor, has a presence in multilateral aid decision-making bodies. As discussed in II., an effective way is to work within these.

Australia will not be the first to link transparency or human rights issues with multilateral aid. The European Union, the World Bank, and others have done so.

If aid donor countries work together, they will be more effective, and unhappy recipient governments will find it harder to retaliate against aid donors.

The VCA recommends the following:

Recommendation 7 - Study of human rights on the agenda of multilateral entities

The Australian government initiate an inter-departmental study to examine in detail the questions of whether, where, and how the issue of human rights should feature on the agenda of international multilateral entities:

- **The "whether" relates to balancing of Australia's national interests and the interests of donor countries.**
- **The "where" relates to which multilateral entities should be targeted, for example the:**
 - **World Bank**
 - **United Nations Development Program**
 - **International Monetary Fund.**
- **The "how" relates to the ways in which, the strength by which, and the occasions on which Australia's points are made.**

The Parliament should be given an opportunity to contribute to the study itself and, where possible, help formulate the study's terms of reference.

In addition to departmental personnel, the study should involve - ranging from consultations with to direct contributions by - personnel from outside government departments, such as the Parliament, relevant bodies, and NGOs.

Its recommendations should be responded to by the government and all relevant parties.

6. *Aiding local organisations to promote human rights*

An effective way to promote human rights is to assist "local human rights organisations" (defined below). This has the added benefit of directly assisting the building of a strong civil society.

The VCA recommends the following:.

Recommendation 8 - Aiding local organisations to promote human rights

The Australian Government allocate a small annual percentage of funds to aid local human rights organisations (by and for local people, operating locally, to protect or promote some or all of their own people's human rights).

AusAID should be charged with the responsibility of actively seeking opportunities to effect such aid.

If recipient governments do not allow the implementation of this Recommendation, that fact should be reported to the Parliament.

7. *Radio Australia's charter to include rights projection*

Radio Australia aims to project Australia's image and values abroad. Hence, while not being an aid organisation, it actually supports Australia's aid program which does the same thing using a different means. This is one reason not to leave Radio Australia out of discussions related to aid and human rights.

Another reason is that Radio Australia could support actions that Australia will take in this arena. For example, Radio Australia can explain why Australia regards certain transparency conditions as critical and must be satisfied before additional aid is given. Without such explanations, public opinion can be manipulated to present Australia as arrogant.

To achieve results such as the above, the VCA recommends the following:

Recommendation 9 - Radio Australia's charter to include rights projection

The Australian Government, within the freedom of the press principle, to ensure that Radio Australia's charter include words to the effect that its role includes "projecting the Australian people's views of universal values of human rights, democracy, transparency and governance".

In its annual report, Radio Australia's activities in this area should be detailed. It should also separately write to the Human Rights Sub-Committee highlighting the relevant activities.

In carrying out this Charter, Radio Australia should be guided by a community consultation process in which community organisations with an interest in human rights, governance, and transparency are represented.

8. *Strengthen DFAT's human rights capacities*

Without taking care, in practice the aid program may tend to veer towards considerations of trade (the T part of DFAT), of diplomacy (the FA part), and of aid (which is what AusAID staff can be expected to concentrate on). Human rights and related considerations will then be low priority. To provide a more balanced outcome, a balancing mechanism is needed.

A possible balancing mechanism is a DFAT sub-structure accountable for the human rights - transparency - governance aspects of the aid program.

While line control for this sub-structure may be internal, there should be some kind of functional control that crosses DFAT boundary. One such mechanism is Parliamentary scrutiny of DFAT on the above aspects, by way of DFAT reports to the Parliament etc.

The funds required to establish and maintain this sub-structure should come from the aid funds. This ensures that so long as the foreign aid program exists, this sub-structure is adequately resourced to work on the above aspects.

We believe that staff training is important, to obtain the skills and attitude needed.

These staff should not just work in Australia but also on the ground in recipient countries.

Being there, they can engage in important tasks, such as below. An examination of these will make it clear that existing DFAT sub-structures that relate to human rights do not substitute for the following Recommendation.

It should be recognised that this sub-structure, while concentrating on aid recipients, can have wider scope covering non-recipients.

Recommendation 10 - Use aid funds to strengthen DFAT's human rights capacity

The Australian Government strengthen DFAT's human rights-related capacity, by using part of aid funds.

Specifically, DFAT to have a sub-structure accountable for human rights, transparency, and governance aspects. This sub-structure concentrates on countries receiving aid, but not necessarily limited to them.

This sub-structure to be given the necessary training and resources to:

- a- Sufficiently monitor human rights developments,**
- b- Make representations and do necessary field work (see below),**
- c- Work with in-country organisations (government or non-government) to help protect and promote human rights,**
- d- Participate in human rights dialogs (see below), and**
- e- Report to the Government or the Parliament on its work.**

The Recommendation below expands on b- above:

Recommendation 11 - DFAT officials to visit political prisoners, and report to Parliament

Where the recipient country is alleged to hold political prisoners, DFAT officials to regularly meet with that government's representatives, both in-country and in Australia, to make representations to free political prisoners.

The Australian Government to, at least on these occasions, request aid recipient governments for DFAT officials to visit political prisoners.

These visits to be as regularly as feasible, and to as many people as feasible, within available resources.

The Government to, at 6 monthly intervals, report on these visits and representations to the Parliament.

If the recipient government refuses visit requests, the reports should cover those refusals, and Australia's responses.

The Recommendation below expands on d- in Recommendation 10 above:

Recommendation 12 - Human rights dialogs with emphasis on results, consultation, and accountability

We believe there should be more government-level dialogs, following on from the present Australia-China dialog, but with improvements as detailed below. This Recommendation expands on d- in Recommendation 10 above:

The Australian Government initiate regular human rights dialogs with some governments, including aid recipient governments.

It is important that the dialogs have an emphasis on results, practical work, accountability, and two-way community consultation, as follows:

- **The dialogs should have an emphasis on practical and hands-on work, such as site visits by officials,**
- **Regular 6-monthly reporting should be made to the Parliament to report on results, explain what has been done to achieve such results, or explain why results have not been achieved and what actions are planned to achieve them,**
- **To allow the Parliament to retain an active role, the Human Rights Sub-Committee should have the ability to suggest target results for the dialog, and to request briefings on an ad-hoc basis,**
- **Community consultation should be undertaken to receive inputs and to brief interested community groups, and**
- **Non-government observers should be allowed to be present at meetings.**

9. *Human rights and education aid*

Australia is currently giving human rights-related education aid to some countries. The following Recommendation aims to improve its effectiveness, or discontinue it if it is ineffective:

Recommendation 13 - Effective human rights education aid

The Australian Government include two additional aspects in its human rights education aid, such as to Vietnam:

- **Follow up should be conducted with trainees to assess whether and how the training has been applied in their work and to evaluate the human rights outcomes. Results from this should be factored into annual decisions about whether this type of aid should be continued, or modified,**
- **Consideration should be given to including a wider range of people among the beneficiaries, such as legislators and media editors.**

Australia is also giving education aid to some recipients, for example by way of scholarship. The following Recommendation aims to link such aid to human rights.

Recommendation 14 - Introduce scholarship students to human rights-related concepts

The Australian Government take steps to introduce students whom it sponsors to undertake study (conducted inside or outside of Australia), to human rights concepts and related concepts:

- **The contents may cover international human rights instruments, Australia's role and initiatives in human rights, concepts about democracy, transparency, and governance.**
- **This introduction may occur at a student's induction, but can also take place any other time during a student's course of study.**

Additionally, the literature that prospective students receive from DFAT and educational institutions should include brief information Australia's views of universal values of human rights, democracy, and transparency.

10. Debt reduction

For debt reduction for Heavily Indebted Poor Countries (HPIC) to meet its purpose, we suggest two principles:

- Where possible, increase aid rather than allow direct debt reduction.

If a country can make repayments, it should do so. The Government may then increase (or, not reduce) aid by a similar amount. This approach enables the Government to control how the money is used to benefit the people.

- Where debt reduction is given, the Australian Government should ensure that the money saved helps the country's people (not their rulers or the privileged few),

The VCA recommends:

Recommendation 15 - Reduce debt in ways to help the country's peoples

- **Rather than debt reduction, the Australian Government increase aid, by an amount similar to the repayment, so that it retains control and ensure that the money benefits the people.**
- **If direct debt reduction must be given, then the Australian Government accompany it with work or conditions to ensure that the money saved is actually used to help the country's people.**

-End of body of Submission-

APPENDIX**AID - HUMAN RIGHTS FRAMEWORK**

The Minister for Foreign Affairs, Mr Downer, in the Eighth Annual Statement to Parliament on Australia's Development Cooperation Program (2 December 1998), outlined the following framework for supporting human rights through Australia's aid program:

"The framework consists of six key principles.

First, human rights are a high priority for the Government. Civil and political rights are ranked equally with economic, social and cultural rights.

Secondly, the aid program will continue to undertake activities that directly address specific economic, social, cultural, civil and political rights. A particular emphasis will be on the creation of durable institutional capacity to promote and protect human rights.

Thirdly, the emphasis is on the practical and the attainable. AusAID, as the Government's aid agency, will pursue practical aid activities in support of human rights. These activities complement and build on high-level dialogue on human rights. Dialogue on human rights and representations about individual human rights cases will normally be carried through diplomatic channels.

Fourthly, the aid program will develop activities primarily as a result of consultations and cooperation with partner countries on human rights initiatives. Regional and multilateral activities will also be undertaken.

Fifthly, considerable care will continue to be applied to the use of aid sanctions associated with human rights concerns. The Government will consider such sanctions on a case-by-case basis. Aid conditionality based on human rights concerns would only be used in extreme circumstances since it can jeopardise the welfare of the poorest and it may be counter-productive.

Sixthly, AusAID will continue to link closely with other arms of the Australian Government on governance and human rights issues. AusAID will also liaise with NGOs and human rights organisations in Australia.

Practical action based on these principles means that the aid program will continue to focus on its objective of assisting developing countries to reduce poverty and achieve sustainable development. These principles will underpin our strong support for civil and political rights throughout our aid work. The aid program will seek to maximise the benefits for human rights in all development assistance activities."

-End of Appendix -
- End of Submission -