



**Australian
Human Rights
Commission**

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China-Australia

Human Rights Technical Cooperation Program

Some Key Achievements and Outcomes of the Program

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Information for the Human Rights Sub-Committee, Joint
Standing Committee on Foreign Affairs, Defence and
Trade

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1 Introduction

1. The Australian Human Rights and Commission (the Commission) provides this information in response to questions taken on notice at the public hearing of the Human Rights Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade in its inquiry into human rights mechanisms in the Asia-Pacific on 18 February 2009.

2 Background to the HRTC Program

2. In August 1997, following discussions between Premier Li Peng and Prime Minister John Howard, China and Australia initiated a high level dialogue on human rights. During the course of the initial dialogue it was agreed that the two countries would undertake a program of technical cooperation aimed at strengthening the administration, promotion and protection of human rights in China. The China-Australia Human Rights Technical Cooperation Program (HRTC) has continued to operate within the framework of the bilateral dialogue. Subsequent rounds of the annual human rights dialogue have noted the success of the activities sponsored under the technical cooperation program and endorsed further activities intended to consolidate and extend the achievements of earlier activities.
3. On the Australian side, the human rights dialogue is managed by the Department of Foreign Affairs and Trade and the Australian contribution to HRTC is provided through the Australian Agency for International Development (AusAID), the Australian Government's development cooperation agency. AusAID has entered into a Record of Understanding with the Commission to manage the overall implementation of HRTC.
4. The activities of the HRTC program, are each of small scale and generally of relatively short duration. They include seminars and training workshops, study visits and other formats. Each activity is designed and implemented through a cooperative venture between the Commission and a particular Chinese organisation. The Chinese cooperating organisations currently include:
 - Ministry of Foreign Affairs (the lead counterpart organisation)
 - All-China Women's Federation
 - Beijing Legal Aid Organisation
 - Ministry of Civil Affairs
 - Ministry of Justice
 - Ministry of Public Security
 - National Judges College
 - National Population and Family Planning Commission.
 - State Ethnic Affairs Commission
 - Supreme People's Procuratorate
 - Supreme People's Court
 - United Nations Association of China.
5. HRTC activities focus on three priority theme areas: i) legal reform, ii) women's and children's rights; and iii) ethnic and minority rights. However,

within these three broad theme areas, the program encompasses a wide range of topics. The design of the program recognises that its overall impact is likely to be modest and that substantial change is likely to come slowly. However it is implicit in the design of all activities that they have a direct impact and that they foster and sponsor longer term contact between Chinese and Australian individuals and organisations.

6. The HRTC Program demonstrates, among other things, the concrete results that can be achieved through technical cooperation activities that have a practical emphasis, bring together Australian and Chinese professionals working in similar fields and focus on areas in which Australian expertise is relevant to the needs and priorities of the recipient organisations. Some key areas of activity in the HRTC program include:
 - working with the All-China Women's Federation in domestic violence prevention and anti-trafficking
 - training of Chinese officials in the reporting requirements of international human rights treaties
 - training of Chinese judges in protecting the rights of defendants, victims and witnesses in court proceedings
 - workshops on human rights protection in delivery of family planning services
 - working with the State Ethnic Affairs Commission to develop culturally sensitive techniques for the delivery of education and health services
 - working with the Ministry of Public Security in management of police detention centres
 - seminars on government support for civil society organisations
 - scholarships for Chinese diplomats to study human rights at Australian universities.

3 Challenges in Measuring Human Rights Outcomes

7. The Commission places great importance on achieving clear outcomes from the HRTC program. The question as to whether HRTC has contributed to any real and positive changes for the people of China is addressed principally in Section 5 of this paper. That section highlights a large number of outcomes, drawing especially on the results of some evaluation case studies conducted in 2008.
8. In identifying these outcomes, the Commission has grappled with the inherent challenges and complexities in measuring human rights change. Progress in human rights often (although not always) evolves over a long period. Evidence of human rights change takes many forms and includes tangible as well as more impressionistic factors such as changes in attitudes and awareness. Indicators of an immediate and easily quantifiable nature are not always appropriate in measuring human rights changes. In this subject area, effective evaluation requires a mix of quantitative and qualitative, short-term and long-term indicators. Evaluation should utilise all available evidence, including both empirical data and anecdotal information.

9. A realistic recognition of the gradual and incremental nature of much human rights change is a vital element in measuring the success of human rights programs. In the context of China, the fact that some significant reforms in the rule of law and administration of justice have occurred in the space of the last few decades must be regarded as impressive, given that in western legal systems comparable developments have taken centuries to unfold.
10. A further challenge in measuring success in a program like HRTC is that of causation or attribution. It is often difficult to determine with any degree of precision the extent to which this program, relative to other factors, contributes to certain outcomes. Significant advances in human rights are more often the result of many different factors that interplay in highly complex ways. Those factors include the combined efforts of numerous international donors as well as domestic forces within the recipient country.
11. The lack of transparency that one encounters to varying degrees within the Chinese Government and bureaucracy further compounds the difficulties in gaining information on outcomes. China has no history of institutional transparency and while the workings of government are better known today there remains a strong tendency towards opaqueness, both in the development of policy and process and in the day to day implementation of policy. This makes an appreciation of the longer term outcomes difficult to achieve and the sustainability of the impacts produced through HRTC particularly difficult to assess.

4 HRTC Evaluation Methodologies

12. Evaluation of HRTC activities has as its reference point, the overall objective of the program, which is:

'to strengthen the administration, protection and promotion of human rights in China'
13. Realising this objective involves changes at different levels. It involves immediate changes in practice, through measures such as pilot projects, localised administrative reforms and other grass-roots initiatives. It also involves longer term change in laws, policies and regulations. In addition, relevant changes include increased awareness and demand on the part of the general public, which creates pressure for better human rights protection.
14. In evaluating outcomes, the HRTC utilises a variety of tools and information sources. Evaluation occurs through ongoing monitoring and discussions with the Chinese cooperating agencies, through discussions with Australian and foreign experts, and through international commentary and literature on China and human rights. The Commission has also undertaken case studies to track and assess possible outcomes from selected earlier activities in the HRTC program.

5 Some Key Achievements and Outcomes from HRTC Activities

15. Despite the inherent difficulties noted above in Section 2, it is possible to discern change in areas in which HRTC has worked. Based on information from the sources referred to in Section 4, it seems reasonable to conclude that the program has played a part in helping make human rights more prominent in public discourse and debate. It has assisted in bringing human rights further into the “comfort zone” of senior officials as well as in raising awareness in the broader public arena. The value in raising the level of discussion and overall profile of human rights, although difficult to quantify, is a fundamental part of achieving real change. Not only is it in itself a human rights outcome insofar as it strengthens the rights to freedom of information and expression, it also raises people’s expectations of officials and government. It puts pressure on government and is an essential prerequisite to more substantive changes in laws, policies and practices.
16. By assisting citizens to become more aware of their rights and officials more conscious of their obligations in protecting those rights, the program is contributing to the development of greater accountability in government processes in China. The move towards greater accountability involves political and social changes of enormous magnitude that may take generations to unfold. As such, the role of HRTC relative to other factors in this process should not be over-stated. However, the program seems to be making a worthwhile contribution alongside those other factors.
17. The HRTC has supported this move towards greater accountability through, among other things, encouraging greater openness about human rights in a number of key PRC agencies. Some officials demonstrate a surprising degree of candour and a critical approach when discussing problems in their own system. For example, officials of a number of agencies are highly critical of heavy handed approaches adopted by some provincial or local level authorities, and are determined to stamp out those practices, which they consider to be inconsistent with their view of modern China. A good example is the central office staff of the National Population and Family Planning Commission (NPFPC), who are highly critical of the coercive practices of some local family planning officials and who recognise the need for more concerted reforms to address those violations. The program is assisting the NPFPC to introduce non-coercive methodology in six pilot counties. The pilot program in non-coercive family planning is having an impact not only on the clients of the family planning service but also on the officials implementing the pilot.
18. In terms of outcomes, one of the strengths of the HRTC program is the fact that it strongly aligns itself with the human rights priorities of the Chinese Government. The program supports major policy and legislative reforms being pursued by PRC authorities. This alignment helps give HRTC activities momentum and sustainability, and increases the likelihood that activities will contribute to concrete outcomes, by “riding the wave” of existing Government reform initiatives. An example is the cooperation on anti-corruption,

undertaken in recent years with the Supreme People's Procuratorate (SPP). Corruption in public administration is a major problem in China and is currently the subject of a vigorous reform program with the Chinese Government. This alignment of interests reflects the emphasis the Australian managers place on giving the Chinese a strong sense of ownership of the HRTC program. This is absolutely essential, because the Chinese cooperating organisations will not use the information and knowledge gained from the program in any constructive way unless they see it as beneficial in advancing their own priorities and work programs.

19. There are also encouraging developments which have been apparent within HRTC for some time but which also seem to be spreading more generally in public administration. This includes an increasing willingness to examine the possibility of developing meaningful complaint mechanisms – greatly encouraged by the demonstration of the value of the working complaint mechanisms used in Australia – and a willingness to acknowledge that administrative abuses may be systemic rather than the result of the actions of rogue officials.
20. The above observations are of a fairly general nature, in line with the observation earlier in this paper about the need to take into account qualitative and impressionistic factors as well as more concrete evidence, when assessing human rights change. However, recent evaluation case studies have also revealed more specific examples of outcomes from HRTC activities. In early 2008 the Commission undertook a series of case studies to assess the outcomes of earlier activities undertaken with four of the Chinese cooperating organisations. The particular agencies that participated in the case studies, and the relevant subject areas, were:
 - All China Women's Federation (domestic violence)
 - Ministry of Justice (prison management)
 - National Judges College (judicial training)
 - National Population and Family Planning Commission (human rights and family planning).
21. The case studies identified dozens of outcomes, a number of which are listed below.
22. In terms of new law and regulation:
 - amendments to the *Law on the Protection of Minors*, including new provisions prohibiting domestic violence against minors
 - guidelines on combating domestic violence setting out the responsibilities of different Ministries and agencies in combating domestic violence
 - the inclusion of national domestic violence legislation as part of the current five year legislation plan
 - the promulgation by 25 provinces, autonomous regions and provincial level municipalities, of their own local regulations on domestic violence

- the amendment, by 18 provinces, regions and municipalities, of their methods of implementation of the *Law on the Protection of the Rights and Interests of Women*, adding provisions on domestic violence in accordance with the revisions to the Women's Law
- the promulgation of new *Regulations on the Protection of the Rights of Women* by the Xinjiang Autonomous Region Standing Committee
- coming into force of several amendments to the Xinjiang regional family planning regulations in recent years reflecting new national level policies. These include a 2006 amendment which removed obligatory birth spacing requirements and revisions to ensure that regulations focus on providing incentives and rewarding families who practise family planning (as opposed to coercive measures).

23. In terms of new policy and practice:

- the creation of a new domestic violence category for case management by public security bureaus
- the establishment by public security bureaus in most provinces of their own anti-domestic violence emergency hotlines
- the establishment by 5000 public security bureaus across the country of complaint handling centres to receive domestic violence complaints
- the establishment by the Beijing Women's Federation of a total of 800 legal aid centres for women across the municipality
- the creation of specialist legal aid centres for women within the legal aid offices of local justice departments
- the development of a website with details of the HRTC supported pilot program: 'Protecting Women's Reproductive Health Rights in Central and Western China Program' incorporating materials such as the international human rights instruments as well as laws, legislation and policies, 'rights protection channels' and details of each of the activities which have been carried out under the cooperation program
- the establishment of family planning complaints hotlines in the pilot counties whose success has led to the development of a plan to establish complaints hotlines nationally
- the completion by the National Population and Family Planning Commission of a future planning and directions document which will guide further development of policy and practice to address 5 key human rights related issues
- the establishment in Xinjiang Autonomous Region of 517 service centres in townships which provide family planning services free of charge
- the creation, by the Xinjiang Family Planning Commission, of individual, private counselling rooms to protect privacy and the elimination of the large open rooms in which privacy was protected only via 'whispering'
- the provision of family planning counselling services in minority languages

- the development and distribution of information pamphlets, in minority languages aimed at advising people about their reproductive health rights, and the channels available to them to protect their rights
- the establishment of a family planning service complaints hotline accessible throughout Xinjiang Autonomous Region
- a series of information and education campaigns in Xinjiang's Kuche County (and apparently other counties) designed to provide information to communities about their reproductive health rights, and how they can ensure these are protected via the complaints system
- the development of a handbook on the protection of prisoners' rights, which has been an important reference for courses delivered to prison staff
- a shift from traditional prison management approaches that emphasise isolation from the community and other harsh measures, to approaches that emphasise rehabilitation and skill development, maximize contact with the wider community and encourage effective reintegration into mainstream society following release
- the implementation of a community corrections pilot program in six provinces, under the joint agreement and authority of four agencies: Ministry of Justice, the Supreme People's Court, Supreme People's Procuratorate and Ministry of Public Security. By September 2006, the pilot had been extended to cover 85 cities and 375 counties in 18 provinces, involving approximately 72,000 offenders.
- creation of a compulsory human rights training component for all judges undertaking programs at the National Judges College
- development and introduction of a menu of courses on specific human rights topics at the National Judges' College
- the development of a database of online course material at the National Judges' College, including resources on human rights, incorporating much of the information collected from HRTC activities.

24. In terms of new demand:

- the study of statistics gathered by the All China Women's Federation indicates that nationally the number of domestic violence cases generally is decreasing while the number of reported cases and cases in which the victim sought help is increasing
- the development, by the Beijing Women's Federation of cards, paintings and posters which promote anti-domestic violence messages and information on the domestic violence related amendments to China's *Marriage Law*. Ten different posters on this theme have been put up in buses around Beijing.
- the establishment of domestic violence and legal aid services in and around Beijing, the use of which has consistently increased since they were established. The Beijing Women's Federation concludes that this is because of an increase in the number of women who knew about the

services and felt confident that they would receive help through the services.

- the establishment, by the Centre for Women and Children's Health of an active screening program to identify victims of domestic violence accompanied by a system of referral of apparent victims to women's federations and other agencies for assistance
- the establishment of about 160 domestic violence hotlines across Xinjiang, including in the large cities as well as grassroots and rural areas
- the distribution of leaflets and pamphlets in native ethnic languages with information about domestic violence and women's rights
- the increased attendance at clinics by Muslim and other ethnic nationalities as a result of more culturally sensitive delivery of services
- the development and delivery of target-specific human rights training: training for managers includes human rights information, whereas training to clients and the masses is mainly information about what their rights are under the law and what avenues are available to them to assert these rights and to lodge complaints
- the distribution of 70,000 brochures and publications throughout Kuche county on reproductive healthy rights and quality of care in family planning services.

25. This list, which is indicative rather than exhaustive, is the result of the examination of only a small percentage of the program's activities in a limited geographical area. It seems reasonable to conclude that the type of outcomes identified above are being replicated elsewhere in the country, and that such outcomes will assist the HRTC program have a long term impact on the promotion and protection of human rights in China.