



# **Submission No 15**

## **Inquiry into Australia's Human Rights Dialogue Process**

**Organisation:** Vietnamese Community in Australia

**Contact Person:** Dr Tien Nguyen

**Address:** PO Box 606  
CABRAMATTA NSW 2166

**Submission  
by the  
Vietnamese Community in Australia  
to the  
Joint Standing Committee on  
Foreign Affairs, Defence and Trade's**

# **Inquiry into Australia's Human Rights Dialogue Process**

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**Inquiries:**

Dr. Tien Nguyen  
Federal President, VCA  
Tel: 0500 888 800  
cdnvtduc@hotmail.com  
P.O. box 606, Cabramatta, NSW 2166

## ***Introduction***

We are a participating organisation in the attached June 2004 Joint Non-Government Organisations Statement On The Human Rights Dialogue Process.

We thank the Committee for the opportunity of making this Submission, which details and adds to the above Statement, touching on all Terms of Reference.

## ***Transparency***

### **Why should there be transparency?**

The Australian public expects all areas of government to be transparent, unless there is a compelling and overwhelming reason against transparency.

We do not think such reasons exist:

- Diplomacy: Transparency is not inconsistent with quiet diplomacy, where quiet diplomacy is required.

Besides, it is a mixture of quiet diplomacy and forcefulness that will promote human rights, rather than a constant and automatic adherence to quiet diplomacy.

Despotic regimes oppress their citizens' civil and political rights intentionally and with determination, because doing so is fundamental to maintaining their power. Quiet diplomacy alone has never resulted in despotic regimes stopping their oppression.

- Embarrassment: Transparency might sometimes lead to embarrassment or awkwardness for the Dialogue Partners. However, avoidance of embarrassment does not seem to be an acceptable reason against transparency. If the Government refuses to accept transparency for fear that the Dialogue partner does not accept it, then this would be seen by the Australian public as perhaps weakness and secrecy, rather than sensitivity.
- Resources: The kinds of transparency that we are talking about are far from requiring a prohibitive level of resources to implement.
- Privacy: Sometimes, to protect the privacy of an individual victim, etc., names should be suppressed. But this is a long way from saying that the Dialogue should be held in secret.

**Therefore, we recommend that the Human Rights Dialogues should be transparent.**

Transparency means that what goes on, or does not go on, the Dialogues, should be visible to the public, and to the Parliament. Below, we discuss how this might work in practice.

## **Transparency to the Parliament**

The Dialogues should be both transparent and accountable to the Parliament. The next Section will discuss in more detail.

## **Transparency to the public**

The Dialogues should be made transparent to the public in a number of ways:

- Reports by the Government on past Dialogues, and detailed information (including detailed rather than undecipherable agenda items) about forthcoming ones, should be available and readily accessible as public documents (for example, as online documents).
- Government officials should be able to talk with the media, interested NGOs, etc. about Dialogues.
- Any governmental decision to withhold certain information from the public domain should be able to be queried and challenged by the Parliament.

**We recommend that the above be implemented.**

## **Transparency to the public, via NGOs**

Involving civil society in the Dialogues is a good thing, we believe. Through NGOs, the Government can communicate to and from the interested public.

- Observer: Interested NGOs should be able to observe the Dialogue, and – subject to reasonable restrictions on privacy - to report on their observations.

If only officials attend and report on Dialogues, then sometimes one cannot know what to know because one cannot know what to ask. This is particularly so, if certain information is withheld in official reporting.

To see why it helps to have NGOs observing and reporting on Dialogues, one only has to read reports and observations by NGOs which attend at the United Nations. Typically, their reports and observations are useful and informative, probably more so than official reports.

NGOs' presence as observers in no way interferes with their independence from the Governments involved, or from the particular Dialogue itself. It is not inconsistent for an NGO to be critical of, doubtful about, and independent from a Dialogue, to also observe and criticise. In fact, observing allows NGOs' criticisms, if any, to be better informed.

Giving officials a monopoly on observing and reporting can give rise to a closed-club atmosphere, and makes maintaining accountability harder.

- Consultation: Presently, the Government already seeks inputs from NGOs before the Dialogues (and briefs them after). We congratulate and support the Government on this approach.

**We recommend that the Government continue to consult with NGOs. Further, we recommend that NGO representatives be allowed to attend Dialogues as observers, and to later report to the public on them.**

## ***Accountability***

### **Why accountability, by whom, and to whom**

*"We Australian officials cannot be held accountable if the Dialogue Partner keeps on abusing human rights".* This is quite reasonable. Australian officials should not be held personally accountable if the failure of a Dialogue to achieve its aims is outside their control. They are already accountable to their line managers in terms of their preparation for and conduct at Dialogues. This should remain so.

However, because Dialogues consume resources and are a part of Australia's foreign policy, which itself must be accountable, therefore the Dialogues

should be able to be accounted for. Otherwise, an unhealthy all-care-no-responsibility attitude may set in.

This means that a set of Dialogues with a Partner should be able to be reviewed to see whether it is useful, and how or whether it should continue.

To conduct such reviews, its aims must be spelled out. For reviews to be meaningful, the aims should not be set at trivial levels or in woolly terms.

Via the Parliament, the people can be assured of Dialogues' transparency and accountability. Current mechanisms include Estimates, Question Time, etc. However, these mechanisms could be ad-hoc or too adversarial. They could be improved. How this might be done, is the subject of what follows.

## **Transparency to the Parliament**

The Government should report to the Parliament in detail before and after each Dialogues meeting, and about progress between meetings, or lack of progress.

The Joint Standing Sub-Committee on Human Rights should be the focal point for such reporting (as well as for ensuring accountability). Such a bicameral, multi-Party, and human rights-specific body is ideally suited to this task.

**We recommend that the Government report regularly to the Joint Standing Sub-Committee on Human Rights on Dialogues.**

**Further, if any details are withheld in reporting to the public, they should be revealed to the Sub-Committee, which should be able to challenge such withholding.**

## **The Parliament should set a Dialogue's specific aims**

By "aims", we mean something between the too-loose aim of "Improve the human rights situation some time in the next decade", and the perhaps too-tight "Halve the population of political prisoners next week".

For each Dialogue Partner, government officials should be able to tell the Sub-Committee which aims they think are achievable. The Sub-Committee would know what should be aimed for, which often would be more challenging. Through its deliberations and consultations with the Government, the Sub-Committee would be able to arrive at a set of aims.

**We recommend that the Parliament, through the Joint Standing Sub-Committee on Human Rights, should lay down specific aims for each set of Dialogues. In doing so, it should consult with the executive.**

Why shouldn't this be the sole responsibility of the Foreign Minister? As far as we know, this has not been done, therefore this model is not reliable. Also, doing so would keep accountability almost exclusively within the executive branch of government, thus lacking in checks-and-balances.

## ***Dialogues, foreign policy, and foreign aid***

### **Use foreign aid and foreign policy to support Dialogues**

Human rights Dialogues are only one of the sensors and actuators through which Australia can monitor and try to influence human rights outcomes.

If all that Australia does it is talk, then all that it can do is hope and patiently wait for the goodwill of its Dialogue Partner.

Not only is this unrealistic, it may *even be harmful*. When a despotic regime kills dissidents or oppresses its people, it is best if Australia puts pressure, and second best if Australia says nothing. If all that Australia does is to talk diplomatically, this is worse than second best. This is because despotic regimes' officials will develop the mindset of "*They know about these murders, yet they just talk. This means we can get away with murders*".

Some argue that diplomatic pressure through the Dialogues can play a major part in helping to achieve human rights outcomes. We are not certain of this. The Taliban would still be killing Afghans and oppressing women today if all that the world did was to do quiet diplomacy through Human Rights Dialogues.

**We recommend that the Parliament, and the Government, consider how the judicious use of other instruments available to Australia – such as foreign aid, or foreign policy – could be used to help achieve the aims of Dialogues.**

In terms of foreign policy, there are a wide range of levers available, including Australia's position at the UN's Human Rights Commission.

In terms of aid, while we prefer softer methods, we think that tougher ones should be available as last-resort reserves.

**We recommend that the foreign aid program should be designed to support the Dialogues. For example: At multilateral aid donors' fora, Australia should support the linkage between aid and human rights, it can design some bilateral aid projects to support human rights, and give assistance to indigenous NGOs involved in rights-related work.**

**We recommend further that when large-scale and ghastly abuses of human rights occur (such as the Hanoi regime's Easter brutal killings of Montagnards – the equivalent to mass murdering our Aborigines), Australia should supplement talk with pressure by suspending or reducing its bilateral aid, and at multilateral bodies such as the World Bank it should do likewise with multilateral aid.**

Usually, aid pressure speaks more loudly than air pressure to despotic regimes' ears.

*"That's too drastic. You would only hurt the people you want to help". We know that DFAT has said this, and will again.*

The trouble is, regimes guilty of human rights crimes know that, too. This is important, and comforting, to guilty regimes, because therefore they know that they can kill at will: *punishment is most unlikely.*

Besides, Australia can apply aid pressure without hurting the recipient people. It can carefully choose to suspend only those aid projects that benefit officials more directly than ordinary people (for example, inviting officials to visit Australia), and those that impact slowly rather than immediately (for example, developing long-term partnerships between our and their research bodies).

Further, despotic regimes *can* afford most such programs if only they try. If Vietnam dissolves the military divisions it has been maintaining in Laos to suppress dissent there, and if corrupt aid recipient regimes have the will to become just a few percent less corrupt, they will be able to afford many such projects. The combined ill-gotten wealths of the Communist Party of Vietnam's top officials are so huge that they can replace a decade or more of Australian aid. If such projects are not done, that is primarily because despotic regimes – not Australia – lack the will.



## Foreign aid as part of Dialogues?

Currently, Dialogues do involve spending aid money, under such terms as "capacity building" or "technical cooperation".

Many abuses of human rights (such as killing or jailing of dissidents, firewalling democracy websites, executing prisoners, etc.) actually consume resources. Stopping oppression saves resources, rather than requires them.

Because human rights abuses result from the guilty regime's will to abuse rights, *not* from lack of resources, therefore spending Australian taxpayers in the hope of encouraging them to respect rights, seems wasteful.

There has been a school of thought that if, for example, Australia pays for regime officials (administration, judicial, media<sup>1</sup> etc. ) to fly to Australia to observe our democratic institutions, or to supply human rights books to regime officials, etc., then hopefully they will gradually become agents for change.

In these days of accountability and tight money, few departments should spend money on similarly slim hopes. The onus therefore is on those who assert the above (which costs public money), to show results, and show that technical cooperations are a contributing factor.

It is not hard to see that as far as guilty regimes' officials are concerned, it is quite tempting for them to abuse the system to get benefits such as Australian taxpayers-funded trips.

It is also obvious that organising such trips provides relatively easy, achievable actions for Australian officials to take – a sort of "run on the board".

**We recommend that such "technical cooperation" etc. programs be looked at carefully, to see whether and how they help the oppressed.**

**Further, to improve accountability, we recommend that such programs, if conducted, be clearly listed in both the aid program and the Dialogue as, for example, "foreign aid for human rights purpose".**

We end this Submission with this thought:

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<sup>1</sup> Additionally, inviting and paying for Vietnamese journalists from Vietnam to visit Australia, while not working to change Hanoi's policy of prohibiting Vietnamese Australian journalists from going to Vietnam to report back, seems wrong to us.

Just as killing a person in Australia is a crime, so is killing dissidents in another country. It may be a current fact of life, but it is a crime nevertheless. If Australia would not pressure criminal regimes, then at least taxpayers do not want to reward them with unconditional aid, even if much of it goes through private Australian companies. Currently it is Australian government policy to, with the right hand, give taxpayers' money regardless of recipient regimes concurrently murdering their citizens and, with the left hand, talk quietly about such murders while also giving aid as part of talking. This is usually called professional, quiet diplomacy, and constructive engagement. Whatever it is called, if that is all that Australia does, and Australia shies away from applying pressure via aid or other foreign policy levers, then Australia is giving the wrong message to these regimes.

- END -

## APPENDIX

### **JOINT NON-GOVERNMENT ORGANISATIONS STATEMENT ON THE HUMAN RIGHTS DIALOGUE PROCESS June 2004**

- We support human rights dialogue as a means for advancing human rights internationally.
- We regard human rights dialogue as only one of the avenues for advancing human rights. Other approaches, such as international monitoring through United Nations bodies, are equally if not more effective.
- We urge Australia to ensure its commitment to the human rights dialogue process does not result in the preclusion of the option of pursuing UN resolutions on human rights or the use of other mechanisms.
- We are concerned that human rights dialogue may become an end in itself. Human rights dialogue is the means to an end; it should be results oriented to ensure real progress in the observation of international human rights standards.
- We believe that transparency and accountability are generally desirable in human rights matters and both are necessary in the human rights dialogue process.
- We recommend that the human rights dialogue process be more accountable to parliamentary agencies, such as the Human Rights Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade.
- We believe that civil society, including non-government organisations (NGOs), has a positive role to play in the human rights dialogue process. The involvement of independent NGOs would bring greater transparency and credibility to the process and lead to more effective outcomes.
- We see a need for clear reporting on human rights dialogues, with particular attention to the outcomes. All interested parties should have access to such reports.
- We recommend the establishment of clear and measurable benchmarks for all human rights dialogues to ensure the most effective outcomes.
- We believe that the human rights dialogue process should specifically address the rights of women, children and minorities.

Endorsed by Vietnamese Community in Australia