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The Parliament of the Commonwealth of Australia

# More than just talk

**Australia's Human Rights Dialogues with China and Vietnam**

Joint Standing Committee on Foreign Affairs, Defence and Trade

June 2012  
Canberra

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## Foreword

During the course of this inquiry, it was clear that the wide range of non-government organisations (NGOs), ethnic community groups and interested individuals that made a submission or gave evidence at a public hearing held a number of concerns about Australia's bilateral dialogues with China and Vietnam.

Submitters were critical of the Department of Foreign Affairs and Trade's (DFAT) engagement with NGOs, in particular saying that it has been ad hoc to date. They were also critical of the current level of reporting on the human rights dialogues as well as the monitoring and evaluation of outcomes.

The observations above notwithstanding, it was clear that submitters was supportive of Australia's bilateral human rights dialogues providing that it formed part of a multifaceted approach to human rights advocacy. Indeed, many groups and individuals suggested that Australia expand the number of countries with which it holds dialogues, calling for Australia to re-establish its human rights dialogue with Iran and consider initiating a dialogue with Sri Lanka, Cambodia, Indonesia, Malaysia, Papua New Guinea, Burma and Fiji. Furthermore, the NGOs and ethnic community groups made a number of suggestions aimed at improving and strengthening the dialogue process.

Submitters were also very supportive of increasing parliamentary participation in the dialogues, arguing that it would enhance the process considerably. Many of the community groups called for greater participation by NGOs and civil society organisations from Australia, China and Vietnam. These groups also suggested that the dialogues be made more transparent through wider and more detailed reporting, and called for the establishment of aims and benchmarks so that the outcomes of the dialogues can be effectively measured and reported.

The Committee believes that it is constructive to be talking to other countries about Australia's perspective on human rights, providing that measures are put in place to enhance the effectiveness of the dialogues, that NGOs are actively engaged in the dialogue process, that parliamentarians participate, and that the human rights dialogues are considered as one mechanism which is to be utilised as part of a suite of other mechanisms.

The Committee has therefore recommended that the Australian Government continue to support the human rights dialogue process, look towards establishing a bilateral dialogue with Sri Lanka and consider re-establishing the human rights dialogue with Iran.

To enhance the participation of NGOs in the dialogue process, the Committee made two recommendations: that DFAT host a biennial meeting with NGOs to discuss the human rights dialogues; and the establishment of a human rights web portal as a central access point for all Australian Government human rights information and activity. Creating a human rights web portal would have a number of additional benefits. In particular, it would provide an online hub for ongoing engagement between the public and DFAT on matters relating to the dialogues and increases the transparency of the dialogues as well as Australia's broader human rights advocacy.

To further increase transparency, the Committee recommended that DFAT enhance how it reports on the dialogues in its Annual Report to include a list of dialogue participants, the topics discussed by both sides, and the key outcomes and achievements of each dialogue.

In order to ensure that the human rights dialogues are properly monitored and evaluated on an ongoing basis, the Committee recommends that the Australian Government establish an independent Human Rights Dialogue Consultation Committee to develop a set of principles, objectives and benchmarks for Australia's human rights dialogues. The Committee has also recommends that the consultation committee meet each time a human rights dialogue is held and conduct an overall review of the effectiveness of the dialogues every three years.

Lastly, the Committee calls for greater parliamentary participation in the dialogues, recommending that the Committee receive briefings from the participating agencies prior to and after each dialogue is held.




The Committee would like to sincerely thank all of the NGOs, peak bodies, and concerned ethnic community groups and individuals for generously donating their time, effort and resources to make submissions and appear at public hearings. The high level of engagement by NGOs, concerned ethnic community groups and individuals has been one of the most pleasing aspects of this inquiry. I would also like to thank my hard working colleagues on the Committee who are dedicated advocates for human rights both domestically and internationally.

I would also like to thank the Committee secretariat for their work during this inquiry and in producing this report.

Hon Laurie Ferguson MP  
Human Rights Sub-Committee Chair





## Membership of the Committee

Chair	Senator Michael Forshaw (to 30/06/11)	
	Mr Michael Danby MP (from 1/07/11)	
Deputy Chair	Mrs Joanna Gash MP	
Members	Senator Mark Bishop	Mr Michael Danby MP
	Senator David Fawcett (from 1/07/11)	Hon Laurie Ferguson MP
	Senator the Hon Alan Ferguson (to 30/06/11)	Hon Joel Fitzgibbon MP
	Senator Mark Furner	Mr Steve Georganas MP (to 24/03/11)
	Senator Sarah Hanson-Young	Mr Steve Gibbons MP (to 7/02/12)
	Senator the Hon David Johnston	Hon Alan Griffin MP
	Senator Scott Ludlam	Mr Harry Jenkins MP (from 7/02/12)
	Senator the Hon Ian MacDonald	Dr Dennis Jensen MP
	Senator Anne McEwen (from 1/07/11)	Hon Mr Robert McClelland MP (from 14/03/12)
	Senator Claire Moore	Mrs Sophie Mirabella
	Senator Kerry O'Brien (to 30/06/11)	Hon John Murphy MP
	Senator Stephen Parry (from 1/07/11)	Mr Ken O'Dowd MP
	Senator Marise Payne	Ms Melissa Parke MP
	Senator the Hon Ursula Stephens (from 1/07/11)	Mr Stuart Robert MP
	Senator Russell Trood (to 30/06/11)	Hon Philip Ruddock MP
	Hon Dick Adams MP (from 24/03/11)	Ms Janelle Saffin MP
	Hon Julie Bishop MP	Hon Bruce Scott MP
	Ms Gai Brodtmann MP	Hon Dr Sharman Stone MP
	Hon Anthony Byrne MP (to 14/03/12)	Ms Maria Vamvakinou MP
	Mr Nick Champion MP	

## Membership of the Human Rights Sub-Committee

<b>Chair</b>	Hon L Ferguson MP	
<b>Deputy Chair</b>	Hon P Ruddock MP	
<b>Members</b>	Senator M Furner	Hon D Adams MP (from 24/03/11)
	Senator S Hanson-Young	Mr M Danby MP (from 1/07/11)
	Senator C Moore	Mrs J Gash MP
	Senator S Parry (from 1/07/11)	Mr H Jenkins MP (from 7/02/12)
	Senator the Hon U Stephens (from 1/07/11)	Ms M Parke MP
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## Terms of reference

The Human Rights Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade will inquire and report on the effectiveness of Australia's Human Rights Dialogues with China and Vietnam with particular reference to:

- parliamentary participation and oversight;
- involvement of non-government organisations;
- the roles and obligations of participating agencies;
- reporting requirements and mechanisms;
- the monitoring and evaluation of outcomes including an assessment of whether any human rights reforms within those countries have been obtained;
- whether this dialogue mechanism should be adopted with other countries;
- exploring options for alternative human rights mechanisms.







## List of abbreviations

ABC	Australian Broadcasting Corporation
ACFID	Australian Council for International Development
ACTU	Australian Council of Trade Unions
AFP	Asia-Pacific Forum of National Human Rights Institutions
AGs	Attorney-General's Department
AHRC	Australian Human Rights Commission
ASEAN	Association of Southeast Asian Nations
ATC	Australian Tamil Congress
AusAID	Australian Agency for International Development
CHOGM	Commonwealth Heads of Government Meeting
CLA	Civil Liberties Australia
Commission (the)	Australian Human Rights Commission
Committee (the)	Joint Standing Committee on Foreign Affairs, Defence and Trade
COPE	Cooperative Orthotic and Prosthesis Enterprise
Council (the)	Australia Tibet Council

CPVW	Committee to Protect Vietnamese Workers
CSOs	Civil Society Organisations
DEEWR	Department of Education, Employment and Workplace Relations
DFAT	Department of Foreign Affairs and Trade
DIAC	Department of Immigration and Citizenship
Dialogues (the)	Australia's Human Rights Dialogues
EU	European Union
FaHCSIA	Department of Families, Housing, Community Services and Indigenous Affairs
FDA	New South Wales Falun Dafa Association
HRD	Human Rights Dialogues
HRGS	Human Rights Grants Scheme
HRTC	Human Rights Technical Cooperation
ICJ	International Commission of Jurists
ILO	International Labour Organisation
JSCFADT	Joint Standing Committee on Foreign Affairs, Defence and Trade
MP	Member of Parliament
NGOs	Non-government Organisations
ODA	Official Development Assistance
OHCHR	United Nations Office of the High Commissioner for Human Rights
PCF	Prisoners of Conscience Fund
PEN	Poets, Essayists and Novelists

Sub-Committee (the)	Human Rights Sub-Committee
UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Programme
UNHRC	United Nations Human Rights Council
UPR	Universal Periodic Review
US	United States of America
UVBC	Unified Vietnamese Buddhist Congregation of Australia and New Zealand
VCA	Vietnamese Community in Australia
VCHR	Vietnam Committee on Human Rights
VGCL	Vietnamese General Confederation of Labour
WTO	World Trade Organisation





# List of recommendations

## 2 Australia's Human Rights Dialogues

### Recommendation 1

The Committee recommends that the Australian Government continue to support the human rights dialogue process.

### Recommendation 2

The Committee recommends that the Australian Government consider re-establishing its bilateral human rights dialogue with Iran.

### Recommendation 3

The Committee recommends that the Department of Foreign Affairs and Trade and the Attorney General's Department ensure that all relevant staff receive human rights education and training. The Department of Foreign Affairs and Trade should also ensure that human rights monitoring is an integral part of the duty statement for its diplomatic staff.

## 3 Parliamentary participation and oversight

### Recommendation 4

The Committee recommends that the Chair and Deputy Chair of the Human Rights Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade, or their nominees, participate in the Human Rights Dialogues as members of Australia's delegations. Participation must be properly funded and facilitated.

#### Recommendation 5

The Committee recommends that the Department of Foreign Affairs and Trade and the Attorney General's Department provide a briefing to the Human Rights Sub-Committee, of the Joint Standing Committee on Foreign Affairs, Defence and Trade, as soon as practicable prior to and after each human rights dialogue.

### 4 Involvement of non-government organisations

#### Recommendation 6

The Committee recommends that the Australian Government establish a human rights web portal that provides a central access point for all human rights matters for the Australian Government, non-government organisations, civil society, the diaspora communities in Australia, and concerned individuals.

#### Recommendation 7

The Committee recommends that the Australian Government establish a biennial meeting, to be held alternately in Melbourne, Sydney, and Brisbane, with non-government organisations, civil society, the Diaspora communities in Australia, and concerned individuals to discuss Australia's human rights dialogues.

### 5 Reporting requirements and mechanisms

#### Recommendation 8

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

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

## **6 Monitoring and evaluation of outcomes**

### **Recommendation 9**

The Committee recommends that the Department of Foreign Affairs and Trade convene a panel of experts to produce a report that outlines a clear set of principles, aims and benchmarks for each of Australia's human rights dialogues. The panel should conduct an overall review of the effectiveness of the dialogues every three years.

## **7 Adopting a bilateral human rights dialogue with other countries**

### **Recommendation 10**

The Committee recommends that the Australian Government should make representations to the Sri Lankan Government to open a formal human rights dialogue. A human rights technical cooperation program should also be established in conjunction with the dialogue.

## **8 Complementary human rights advocacy**

### **Recommendation 11**

The Committee recommends that the Australian Government assist interested Asia-Pacific countries in the establishment and development of a National Human Rights Institution within their respective country.





## Introduction

### Conduct of the inquiry

- 1.1 The Joint Standing Committee on Foreign Affairs, Defence and Trade (the Committee) initially commenced an inquiry into Australia's Human Rights Dialogues under its annual report powers on 23 June 2011, and advertised the inquiry nationally.
- 1.2 On 25 June 2011, the then Minister for Foreign Affairs, the Hon Kevin Rudd MP, asked the Committee to inquire into and report on the effectiveness of Australia's Human Rights Dialogues with China and Vietnam (the dialogues).
- 1.3 The Committee invited an array of stakeholders, and groups and individuals with established interest in human rights to submit to the inquiry, including relevant government departments, non-government organisations (NGOs), and civil society<sup>1</sup> groups in Australia.

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1 The World Bank defines Civil Society as referring to: *the term civil society to refer to the wide array of non-governmental and not-for-profit organisations that have a presence in public life, expressing the interests and values of their members or others, based on ethical, cultural, political, scientific, religious or philanthropic considerations. Civil Society Organisations (CSOs) therefore refer to a wide of array of organisations: community groups, non-government organisations, labour unions, indigenous groups, charitable organisations, faith-based organisations, professional associations, and foundations.* World Bank, 'Defining Civil Society', viewed on 29 March 2012, <<http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/CSO/0,,contentMDK:20101499~menuPK:244752~pagePK:220503~piPK:220476~theSitePK:228717,00.html>>

- 1.4 The Committee received 23 submissions and 17 exhibits from a range of groups and individuals within Australia and the region.
- 1.5 A considerable amount of evidence contained within the submissions include names and case information for individuals alleged to be subjected to human rights violations in Vietnam, China, and Sri Lanka.
- 1.6 The Committee considered all the submissions very carefully and holds genuine concerns for the welfare of these individuals. For this reason, the Committee decided to authorise the submissions for publication but redact the names and any contextual information that could lead to individuals being identified.
- 1.7 The Committee also took evidence from 23 organisations and individuals at ten public hearings held in Canberra, Sydney, Melbourne and Brisbane over the course of the inquiry.<sup>2</sup>

## **Structure of the report**

- 1.8 The Committee's report is structured around the inquiry's terms of reference. This introductory chapter provides an outline of the conduct of the inquiry.
- 1.9 Chapter 2 provides an overview of Australia's Human rights Dialogues to date, information on the human rights technical cooperation programs which operate under the framework of the human rights dialogues, as well as the roles and obligations of participating agencies.
- 1.10 Chapter 3 contains a discussion of whether the dialogues should incorporate greater parliamentary participation and oversight, particularly looking at the increased involvement of the Human Rights Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade.
- 1.11 Chapter 4 focuses on the involvement of NGOs in the dialogues to date and Chapter 5 looks at how the dialogues and the human rights technical cooperation programs are reported on.
- 1.12 Chapter 6 examines how outcomes from the dialogues are currently monitored and evaluated, and considers options for ongoing reviews of the dialogues.

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2 See appendices A, B and C.

- 1.13 Chapter 7 examines the feasibility of establishing similar human rights dialogues with other countries and Chapter 8 explores options for complementary human rights mechanisms.



## Australia's Human Rights Dialogues

2.1 In September 2005, the Joint Standing Committee on Foreign Affairs, Defence and Trade (the Committee) tabled its report for the inquiry into *Australia's Human Rights Dialogue Process*. Chapter 1 of the report provides a background on Australia's bilateral human rights dialogues. The report highlights the previous Australian Government's rationale for conducting the dialogues:

The Australian Government firmly believes that non-confrontational, cooperative dialogue is the most effective way to address the human rights situations in other countries.<sup>1</sup>

2.2 The previous report also noted the goal of Australia's human rights diplomacy at that time:

...the most important goal of Australia's human rights diplomacy is to make practical improvements to the human rights situations in other countries. The Government pursues this goal through a combination of constructive dialogue, technical assistance and the building of institutions which underpin good governance.<sup>2</sup>

2.3 The Committee notes that it did not receive enough evidence to undertake an assessment of whether there are measurable outcomes as a result of the human rights dialogue process, how effective it has been to date, and whether the process is value for money.

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1 Joint Standing Committee on Foreign Affairs, Defence and Trade, *Australia's Human Rights Dialogue Process*, September 2005, Commonwealth of Australia, p. 3.

2 Joint Standing Committee on Foreign Affairs, Defence and Trade, *Australia's Human Rights Dialogue Process*, September 2005, Commonwealth of Australia, p. 2.

## Overview of the Australia – China Dialogue

- 2.4 In 1997, the Australian Government initiated a high-level bilateral dialogue on human rights with China.<sup>3</sup> There have been thirteen rounds of formal dialogue since its inception, with the most recent round taking place in China in December 2010.<sup>4</sup> The human rights dialogues are held alternately in either Canberra or Beijing.<sup>5</sup>
- 2.5 The Department of Foreign Affairs and Trade (DFAT) was of the view that the human rights dialogue with China had evolved 'from an officials-only meeting to become a wide-ranging dialogue between delegations comprising parliamentarians, officials and non-government practitioners.'<sup>6</sup>
- 2.6 DFAT highlighted that the composition of the Australian delegation to each human rights dialogue has varied over time 'due to a range of factors, including the timing, the length of notice given and the location of the dialogue.'<sup>7</sup>
- 2.7 In its Submission, DFAT stated that the human rights dialogue consists of four elements:
- formal talks between official delegations;
  - representations on individual cases of concern;
  - a separate program for the visiting delegation which allows direct interaction with non-government human rights practitioners; and
  - a Human Rights Technical Cooperation (HRTC) program through which Australia works with partners to support specific human rights-related projects.<sup>8</sup>
- 2.8 DFAT also stated that the primary components of the human rights dialogue were the formal talks between official delegations and representations on individual cases of concern.<sup>9</sup>

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3 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 5.

4 Department of Foreign Affairs and Trade, *Submission no. 20*, pp. 5, 6.

5 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 5.

6 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 5.

7 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 6.

8 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 5.

9 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 5.

2.9 Topics that Australia raised at the 13<sup>th</sup> human rights dialogue included:

- freedoms of speech, assembly, the press, association, procession and demonstration;
- the use of the death penalty;
- the petition system and forced labour;
- legal reform and the rights of lawyers;
- the rights of women;
- the rights of persons with disabilities;
- the rights of children;
- the rights of ethnic minorities, including in Tibet and Xinjiang;
- freedom of religion; and
- civil, political, economic, social and cultural rights.<sup>10</sup>

2.10 Australia has also raised the issues of organ donation programs and the harvesting of organs from prisoners within China.<sup>11</sup>

2.11 A list of the topics discussed at the first eight human rights dialogues with China is provided in Appendix D of the Committee's previous report into *Australia's Human Rights Dialogue Process*.<sup>12</sup>

## Issues raised about Australia's human rights

2.12 As a dialogue partner, China has an equal opportunity to raise matters relating to human rights concerns in Australia. Topics that China raised at the 13<sup>th</sup> human rights dialogue included:

- changes to shared-parenting laws (2006 amendment to the Commonwealth Family Law Act 1975);
- male-female wage gap;
- attacks on international students;
- visas for international students; and
- rights of Indigenous Australians.<sup>13</sup>

2.13 The Attorney General's Department also highlighted that the kinds of issues raised by China often relate to Australia's domestic human rights position, Indigenous matters and immigration.<sup>14</sup>

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10 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 7.

11 Attorney General's Department, *Submission no. 25*, p. 2.

12 Joint Standing Committee on Foreign Affairs, Defence and Trade, *Australia's Human Rights Dialogue Process*, September 2005, Commonwealth of Australia, Appendix D.

13 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 7.

14 Dr Boersig, Attorney General's Department, *Transcript*, 24 November 2011, p. 4.

## Overview of the Australia – Vietnam Dialogue

- 2.14 The Australia-Vietnam human rights dialogue was first held in Hanoi in 2002.<sup>15</sup> There have been nine rounds of formal dialogue, with the most recent taking place in Vietnam in April 2012. The human rights dialogues are held alternately in either Australia or Vietnam.<sup>16</sup>
- 2.15 DFAT added that while the dialogue with Vietnam is conducted at the level of First Assistant Secretary/Director-General<sup>17</sup> ‘participation in the HRD [human rights dialogues] has broadened since 2002 to include a range of government agencies on both the Australian and Vietnamese sides, as well as Members of Parliament.’<sup>18</sup> In particular, ‘Vietnam’s representation at the human rights dialogue has become more senior and has been drawn from a wider range of government agencies.’<sup>19</sup>
- 2.16 DFAT’s submission noted that the Australia-Vietnam human rights dialogue also consists of formal talks, representations on individual cases of concern, direct interaction with non-government human rights practitioners for the visiting delegation, and a HRTC program.<sup>20</sup>
- 2.17 DFAT also stated that the primary components of the human rights dialogue with Vietnam were the formal dialogue and a program of additional meetings and site visits.<sup>21</sup>
- 2.18 Topics that Australia raised at the 8<sup>th</sup> human rights dialogue with Vietnam included:
- respective national approaches to human rights;
  - individual cases of concern;
  - freedoms of speech, assembly, the press, association and demonstration;
  - the use of the death penalty;
  - legal and judicial reform;
  - prison conditions;
  - freedom of religion;
  - civil, political, economic and cultural rights;
  - ethnic minority rights;
- 

15 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 7.

16 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 7.

17 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 7.

18 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 8.

19 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 8.

20 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 5.

21 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 7.



- women's rights;
- the rights of persons with disabilities;
- international human rights mechanisms (e.g. the UN Human Rights Council, human rights treaties); and
- Vietnam's implementation of recommendations from its Human Rights Council Universal Periodic Review appearance.<sup>22</sup>

2.19 A list of the topics discussed at the first three human rights dialogues with Vietnam is provided in Appendix D of the previous Committee report into *Australia's Human Rights Dialogue Process*.<sup>23</sup>

## Issues raised about Australia's human rights

2.20 DFAT noted that, at the 8<sup>th</sup> human rights dialogue, Vietnam had a general exchange on human rights, questioned why Australia had not enshrined a bill of rights, and raised concerns about an assault on a Vietnamese student.<sup>24</sup>

## Overview of the Australia – Laos Dialogue

2.21 Australia has held three human rights dialogues with Laos, with the first held in October 2006 and the third held in April 2012. DFAT noted that, due to funding issues for the Lao delegation, the human rights dialogues have been held in Laos.<sup>25</sup>

2.22 The second human rights dialogue with Laos, held in April 2009, was conducted at the First Assistant Secretary/Director-General level. Other Australian participants have included officials from the Attorney-General's Department and the Australian Human Rights Commission. The Lao delegation also included representatives from the Ministry of Justice, Supreme Court, Prosecutor's Office, Ministry of Public Security and the Lao Women's Union.<sup>26</sup>

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22 Department of Foreign Affairs and Trade, *Submission no. 20*, pp. 8-9.

23 Joint Standing Committee on Foreign Affairs, Defence and Trade, *Australia's Human Rights Dialogue Process*, September 2005, Commonwealth of Australia, Appendix D.

24 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 9.

25 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 21.

26 Australian Embassy, Lao People's Democratic Republic, 'Second Australia-Laos Human Rights Dialogue', viewed on 29 March 2012, <<http://www.laos.embassy.gov.au/vtan/PR0209.html>>

- 2.23 The dialogues also provide an opportunity for the delegates to visit a range of relevant human rights projects in Laos. At the second dialogue, the delegation visited the National Rehabilitation Centre and the Cooperative Orthotic and Prosthetic Enterprise (COPE) visitor centre, the Lao Bar Association, the Training Centre for Women with Disabilities and an open trial at the Vientiane Capital People's Court for Civil Proceedings.<sup>27</sup>
- 2.24 Topics discussed at the second human rights dialogue included the promotion and protection of women's rights, access to justice, protection of minority rights, and the role of civil society in the protection of human rights.<sup>28</sup>
- 2.25 The Australian Government does not operate a technical cooperation program under the framework of the formal human rights dialogue process with Laos. However, Australia does fund a range of projects aimed at the promotion of human rights in Laos under the Human Rights Grants Scheme.<sup>29</sup>
- 2.26 In the last five years, Australia has funded two non-government organisations through the Human Rights Grants Scheme:
- Lao Disabled People's Association (2008-09, \$149,969);<sup>30</sup> and
  - Participatory Development Training Centre (2011-12, \$90,000).<sup>31</sup>

## Overview of the Australia – Iran Dialogue

- 2.27 The Committee's previous report into *Australia's Human Rights Dialogue Process* noted that the then Deputy Prime Minister and Minister for Trade, the Hon. Tim Fischer, first discussed the possibility of a dialogue with Iran in 1999.<sup>32</sup>

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27 Australian Embassy, Lao People's Democratic Republic, 'Second Australia-Laos Human Rights Dialogue', viewed on 29 March 2012, <<http://www.laos.embassy.gov.au/vtan/PR0209.html>>

28 Australian Embassy, Lao People's Democratic Republic, 'Second Australia-Laos Human Rights Dialogue', viewed on 29 March 2012, <<http://www.laos.embassy.gov.au/vtan/PR0209.html>>

29 Department of Foreign Affairs and Trade, 'Laos country brief', viewed on 29 March 2012, <[http://www.dfat.gov.au/geo/laos/laos\\_brief.html](http://www.dfat.gov.au/geo/laos/laos_brief.html)>

30 AusAID, *Human Rights Grants Scheme: Successful Projects 2007-08*, p. 2.

31 AusAID, *List of Human Rights Grants Scheme projects 2011-12*, p. 4.

32 Joint Standing Committee on Foreign Affairs, Defence and Trade, *Australia's Human Rights Dialogue Process*, September 2005, Commonwealth of Australia, p. 6.

2.28 Australia and Iran have held one bilateral human rights dialogue which was in held in Tehran in December 2002. The Australian delegation included representatives from DFAT, the Attorney-General's Department, AusAID and the then Human Rights and Equal Opportunity Commission (now the Australian Human Rights Commission).<sup>33</sup>

2.29 Topics discussed at that dialogue included:

- Role of the judiciary;
- International human rights instruments;
- National human rights institutions;
- Role of civil society;
- Position of minorities;
- Treatment of the Baha'i;
- Freedom of the press;
- The Shirazi Jews; and
- Dissidents.<sup>34</sup>

2.30 Following the first round of the dialogue, Australia funded a visit to the Human Rights and Equal Opportunity Commission by a delegation from the Islamic Human Rights Commission of Iran.<sup>35</sup>

2.31 Australia only held one formal human rights dialogue with Iran. In their evidence to the Committee, DFAT noted that the Australian Government attempted to schedule a second round but was unsuccessful:

We did in the couple of years after that, make attempts to try to schedule a second round, but the Iranian side was reluctant. They cited a number of reasons: they cited scheduling problems, they said they were preoccupied with the UN consideration of Iran, they cited our attitude. So they were not interested. Then there was a period from about 2007 where Iran itself sought to re-establish the dialogue. The judgment we made was that Iran was not genuinely willing to engage in substantive discussions on human rights.<sup>36</sup>

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33 Joint Standing Committee on Foreign Affairs, Defence and Trade, *Australia's Human Rights Dialogue Process*, September 2005, Commonwealth of Australia, p. 6.

34 Joint Standing Committee on Foreign Affairs, Defence and Trade, *Australia's Human Rights Dialogue Process*, September 2005, Commonwealth of Australia, Appendix D, p. 66.

35 Joint Standing Committee on Foreign Affairs, Defence and Trade, *Australia's Human Rights Dialogue Process*, September 2005, Commonwealth of Australia, p. 7.

36 Ms Bird, Department of Foreign Affairs and Trade, *Transcript*, 1 November 2011, p. 5.

- 2.32 Australia has provided funding for a range of projects aimed at the promotion of human rights in Iran under the then Human Rights Small Grant Scheme. Between 1998 and 2001, Australia provided \$48,266 in funding for projects that provide legal advocacy and support services to women and children in Iran.<sup>37</sup>

## Community perceptions of Australia's human rights dialogues

- 2.33 A significant number of organisations expressed strong concerns about the bilateral human rights dialogues.
- 2.34 The Australian Council for International Development (ACFID) held concerns that the dialogue was at risk of 'becoming ritualistic and an end in and of itself.'<sup>38</sup> That opinion was also reiterated by the Australian Baha'i Community.<sup>39</sup>
- 2.35 The International Commission of Jurists (ICJ) was of the view that bilateral human rights engagement could 'be seen to legitimise or make respectable a particular government.'<sup>40</sup>
- 2.36 The Australian Council of Trade Unions (ACTU) questioned whether the bilateral dialogue process is effective in achieving cooperation between countries on human rights issues and its impact on respect for human rights.<sup>41</sup>
- 2.37 More specifically, the Australia Tibet Council (the Council) voiced its 'concern over the Australian government's reliance on the annual human rights dialogue as the centrepiece of its efforts to improve China's human rights performance.'<sup>42</sup> In particular, the Council was of the view that it 'has not seen a tangible outcome from the dialogue process on the human rights situation in Tibet.'<sup>43</sup>

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37 Joint Standing Committee on Foreign Affairs, Defence and Trade, *Australia's Human Rights Dialogue Process*, September 2005, Commonwealth of Australia, p. 6.

38 Dr Harris Rimmer, Australian Council for International Development, *Transcript*, 11 October 2011, p. 1.

39 Dr Mobini, Australian Baha'i Community, *Transcript*, 20 September 2011, p. 2.

40 Dr Suter, International Commission of Jurists, *Transcript*, 5 September 2011, p. 9.

41 Australian Council of Trade Unions, *Submission no. 13*, p. 1.

42 Australia Tibet Council, *Submission no. 4*, p. 3.

43 Australia Tibet Council, *Submission no. 4*, p. 3.

2.38 The NSW Falun Dafa Association (FDA) held a similar view to the Council on the effectiveness of the dialogues stating that:

...the past Australia-China Human Rights Dialogues have had no identifiable effect in helping to safeguard the human rights of Falun Dafa practitioners in China over the past twelve years.<sup>44</sup>

2.39 The FDA added that:

Australia should avoid engagement and dialogue on human rights in China that is unconditional, because this often confers legitimacy without requiring action or confirming outcomes.<sup>45</sup>

2.40 The Federation for a Democratic China also agreed with the view that the dialogue between Australia and China had no positive human rights outcomes.<sup>46</sup>

2.41 The Vietnam Committee on Human Rights (VCHR) questioned the dialogues' ability to bring about significant human rights change in Vietnam stating:

...after almost a decade of implementation, the lack of human rights progress in Vietnam raises serious questions about the relevance and impact of the dialogue process.<sup>47</sup>

2.42 The Unified Vietnamese Buddhist Congregation of Australia and New Zealand (UVBC) also questioned the human rights situation in Vietnam, stating:

...it has seemed that in the past rounds of dialogue, compared with what has happened in the streets and villages in Vietnam, it has all not had any or much improvement in terms of Vietnam as a country having to practise international standards of human rights as have been signed into several key international covenants.<sup>48</sup>

2.43 The Vietnamese Community in Australia (VCA) viewed Australia's human rights dialogue with Vietnam as a 'token exercise'.<sup>49</sup>

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44 NSW Falun Dafa Association, *Submission no. 16*, p. 4.

45 NSW Falun Dafa Association, *Submission no. 16*, p. 4.

46 Mr Chin, Federation for a Democratic China, *Transcript*, 24 February 2012, p. 34.

47 Vietnam Committee on Human Rights, *Submission no. 19*, p. 1.

48 Most Venerable Thich Quang Ba, Unified Vietnamese Buddhist Congregation of Australia and New Zealand, *Transcript*, 1 February 2012, p. 23.

49 Mr P Nguyen, Vietnamese Community in Australia, *Transcript*, 24 February 2012, p. 15.

- 2.44 Ms Quynh Dao, who appeared before the Committee in a private capacity, held the view that there 'does not seem to be any clear indication that the dialogue process has proved effective in furthering the cause of human rights in Vietnam.'<sup>50</sup>
- 2.45 The Committee to Protect Vietnamese Workers (CPVW) expressed the view that the dialogues provided a material benefit to the Vietnamese Government to travel to Australia.<sup>51</sup>
- 2.46 However, in addition to expressing their concerns, most of the organisations and individuals that provided evidence for this inquiry supported the view that the human rights dialogues should continue.
- 2.47 Civil Liberties Australia (CLA) supported the 'human rights dialogue as a means for advancing human rights internationally.'<sup>52</sup>
- 2.48 The ACTU believed that 'properly structured, human rights dialogues can provide an important avenue through which to facilitate cooperation between countries on human rights issues and to have a meaningful and practical impact on respect for human rights.'<sup>53</sup>
- 2.49 The ICJ 'supports in principle Australia's human rights dialogues with China and Vietnam and is pleased to see how the dialogues have been maintained over the years.'<sup>54</sup>
- 2.50 ACFID also supported the dialogues believing that it was necessary to:
- ...have an incremental and quiet conversation about some of the most difficult human rights issues and we see it as a tool among a suite of tools.<sup>55</sup>
- 2.51 The Australian Baha'i Community, broadly 'supports the human rights dialogue process as a tool to be used alongside others in promoting the protection of human rights around the world.'<sup>56</sup>
- 2.52 The Baha'i Community added that it was 'important to view the dialogues as part of a suite of tools available to the government.'<sup>57</sup> The VCHR also agreed that the human rights dialogue was an accepted tool.<sup>58</sup>

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50 Ms Dao, *Transcript*, 24 February 2012, p. 40.

51 Mr Doan, Committee to Protect Vietnamese Workers, *Transcript*, 24 February 2012, p. 11.

52 Civil Liberties Australia, *Submission no. 1*, p. 1.

53 Australian Council of Trade Unions, *Submission no. 13*, p. 1.

54 Dr Suter, International Commission of Jurists, *Transcript*, 5 September 2011, p. 9.

55 Dr Harris Rimmer, Australian Council for International Development, *Transcript*, 11 October 2011, p. 1.

56 Dr Mobini, Australian Baha'i Community, *Transcript*, 20 September 2011, p. 2.

- 2.53 The Council and the FDA stated that they supported the continuation of the human rights dialogues as a part of a multifaceted approach.<sup>59</sup>
- 2.54 The Australian Human Rights Commission (the Commission) stated that it did not want to abandon the human rights dialogues and advocated for a multifaceted approach 'to pursue human rights in China and Vietnam through bilateral, regional, multilateral fora.'<sup>60</sup>
- 2.55 The Commission also noted that 'Australian officials are not hesitant in robustly raising issues of concern to Australia about human rights in those countries.'<sup>61</sup>
- 2.56 The VCA believed that the human rights dialogues could 'play a very important role in improving the situation of human rights in Vietnam.'<sup>62</sup>
- 2.57 Mr Luke Donnellan MP, a member of the Victorian Parliament, held the view that Australia should 'keep pushing it at human rights dialogues, like we do with China and the like.'<sup>63</sup>

## Committee comment

- 2.58 Many submissions were critical of the progress achieved so far, but overall the consensus seems to be that it is constructive to be talking to other countries about Australia's perspective on human rights, providing that measures are put in place to enhance the effectiveness of the dialogues, that NGOs are actively engaged in the dialogue process, that parliamentarians participate, and that the human rights dialogues are considered as one mechanism which is to be utilised as part of a suite of other mechanisms.
- 2.59 The Committee believes that Australia's bilateral human rights dialogue process is worthwhile and agrees with the wider community view that the dialogues should continue as part of a multifaceted human rights approach.

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57 Dr Mobini, Australian Baha'i Community, *Transcript*, 20 September 2011, p. 2.

58 Vietnam Committee on Human Rights, *Submission no. 19*, p. 1.

59 Ms Kyinzom, Australia Tibet Council, *Transcript*, 5 September 2011, p. 2; NSW Falun Dafa Association, *Submission no. 16*, p. 4.

60 Mr Robinson, Australian Human Rights Commission, *Transcript*, 1 February 2012, p. 4.

61 Mr Robinson, Australian Human Rights Commission, *Transcript*, 1 February 2012, p. 4.

62 Mr P Nguyen, Vietnamese Community in Australia, *Transcript*, 24 February 2012, p. 14.

63 Mr Donnellan, Victorian Parliament, Member for Narre Warren North, *Transcript*, 24 February 2012, p. 32.

- 2.60 A key component of human rights advocacy is government to government dialogue aimed at genuinely cooperative efforts to improve human rights. Continuing the human rights dialogues also increases Australia's opportunities to engage these countries on human rights issues.
- 2.61 The Committee is fully supportive of continuing the human rights dialogue process.

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### **Recommendation 1**

**The Committee recommends that the Australian Government continue to support the human rights dialogue process.**

- 2.62 In light of the above, the Committee has formed the view that the Australian Government should take steps to re-establish its bilateral human rights dialogue with Iran.
- 2.63 Based on the evidence received for this inquiry, the last time Australia considered re-establishing a human rights dialogue with Iran was in 2007.<sup>64</sup> It is an opportune time for Australia to increase its engagement with Iran.
- 2.64 The Committee notes that the Australian Government takes a multifaceted approach by engaging Iran on human rights issues through the Australian embassy in Tehran, the Human Rights Council and the Third Committee of the General Assembly.<sup>65</sup>
- 2.65 Re-establishing the human rights dialogue with Iran will enhance this multifaceted human rights approach.

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### **Recommendation 2**

**The Committee recommends that the Australian Government consider re-establishing its bilateral human rights dialogue with Iran.**

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64 Ms Bird, Department of Foreign Affairs and Trade, *Transcript*, 1 November 2011, p. 5.

65 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 21.



## Roles and obligations of participating agencies

### Department of Foreign Affairs and Trade

- 2.66 DFAT's submission states that it is the lead agency responsible for the bilateral human rights dialogue process which includes managing the organisational aspects of the dialogue meetings, such as:
- arranging timing and agendas with dialogue partners;
  - settling on site visits and field trips when dialogues are held in partner countries and arranging field trips for visiting delegations when Australia hosts;
  - organising and coordinating the Australian delegations;
  - preparing briefings for delegations;
  - liaising and consulting with AusAID, the Attorney General's Department, the Australian Human Rights Commission, and other agencies as required; and
  - handling other administrative arrangements during dialogue meetings as necessary.<sup>66</sup>
- 2.67 The submission also states that DFAT is responsible for:
- liaising with Parliament and providing briefings on request;
  - liaising and consulting with non-government organisations (NGOs), and providing debriefs on the dialogues as requested and through the annual Government-NGO human rights forum;
  - compiling lists of individual cases of concern, making representations and following up on these representations; and
  - reporting to the Foreign Minister on outcomes of dialogues.<sup>67</sup>
- 2.68 In addition, DFAT highlighted that it routinely consults with the following Commonwealth Departments and statutory authorities to prepare for each dialogue:
- Attorney-General's Department;
  - Australian Human Rights Commission;
  - Australian Agency for International Development (AusAID);
  - Department of Immigration & Citizenship (DIAC);

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66 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 13.

67 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 13.

- Department of Families, Housing, Community Services & Indigenous Affairs (FaHCSIA); and
- Department of Education, Employment & Workplace Relations (DEEWR).<sup>68</sup>

## Attorney General's Department

2.69 DFAT's submission also highlighted that the Attorney General's Department (AG's) provides advice through its participation in Australian delegations and in written briefings.<sup>69</sup> DFAT stated:

The role of the Attorney-General's Department in the human rights dialogue process is to provide advice to dialogue participants on Australia's system of law and justice, particularly regarding domestic human rights institutions, policies and legislation.<sup>70</sup>

2.70 DFAT also noted that AG's has provided advice on the following topics that are relevant to its portfolio:

- Australia's Human Rights Framework;
- domestic implementation of international human rights treaties;
- civil and political freedoms;
- freedom of religion;
- national human rights institutions;
- judicial administration and reform;
- criminal justice;
- counter-terrorism and security legislation;
- native title; and
- Indigenous incarceration and deaths in custody.

2.71 In addition, AG's provides briefings on key issues for the human rights dialogues, liaises with DFAT about the timing and venue of the dialogues, provides input into the dialogue agenda and provides broad support to the Commission.<sup>71</sup>

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68 Department of Foreign Affairs and Trade, *Submission no. 26*, pp. 4-5.

69 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 14.

70 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 13.

71 Dr Boersig, Attorney General's Department, *Transcript*, 24 November 2011, p. 1.

## AusAID

- 2.72 AusAID, an Executive Agency within the Foreign Affairs and Trade portfolio, is responsible for managing Australia's overseas aid program.<sup>72</sup>
- 2.73 DFAT's submission noted that AusAID managed the Human Rights Technical Cooperation programs in China and Vietnam, which 'are valued at approximately A\$3.7 million per annum (with around A\$2.5 million allocated to China and A\$1.2 million to Vietnam).'<sup>73</sup>

## Australian Human Rights Commission

- 2.74 The Commission website states that it is an independent statutory organisation that reports to the federal Parliament through the Attorney-General. The Commission works with other national human rights institutions to address major human rights issues in the region.<sup>74</sup>
- 2.75 Its website adds: the Commission also undertakes bilateral international activities as part of the Australian Government's development program run by AusAID. The most substantial of these is the Human Rights Technical Cooperation Program, which is part of the annual Dialogue on Human Rights.<sup>75</sup>
- 2.76 DFAT mentioned that, in addition to being part of the Australian delegation to the dialogues, during formal meetings the Commission:
- ...comments on the human rights situation in Australia and also reports on progress in the HRTC programs with China and Vietnam (as requested).<sup>76</sup>
- 2.77 In its submission, the Commission elaborated on its role in the Dialogue processes with China and Vietnam, noting that it participates in three ways:
- the Minister for Foreign Affairs and Trade invites the President of the Commission, or a representative nominated by the President, to attend the dialogue sessions as a member of the Australian delegation;

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72 AusAID, 'About AusAID', viewed on 2 April 2012, <<http://www.ausaid.gov.au/about/default.cfm>>

73 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 14.

74 Australian Human Rights Commission, 'About the Commission', viewed on 3 April 2012, <<http://www.hreoc.gov.au/about/index.html>>

75 Australian Human Rights Commission, 'About the Commission', viewed on 3 April 2012, <<http://www.hreoc.gov.au/about/index.html>>

76 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 15.

- the Department of Foreign Affairs and Trade invites the Commission to prepare briefing material on particular agenda items for inclusion in the delegation brief; and
- the Australian Agency for International Development invites the Commission to design and implement programs of human rights technical cooperation in order to support the Dialogues and to implement that program.<sup>77</sup>

2.78 To date, the Commission has attended all of Australia's human rights dialogues with Vietnam and every human rights dialogue with China since 1999.<sup>78</sup> The Commission noted that:

The President of the Commission has personally attended most of the Dialogue sessions, and on those occasions where the President has not been available, a senior representative of the Commission has attended on his/her behalf.<sup>79</sup>

2.79 The Commission stated that its role in the human rights dialogues was limited:

The Commission is not involved in setting the agenda or in deciding on the strategy to be followed. While it feels free to make recommendations – and has done so on an informal basis – it recognises that it is up to the Executive agencies responsible for the Dialogues to set the agenda and the strategy.<sup>80</sup>

2.80 While acknowledging its limited role in the dialogues, the Commission highlighted its role as an independent statutory authority involved in the dialogues, stating:

... the Executive Government has placed no conditions on the involvement of the Commission. The Commission's representatives at the Dialogues have always felt free to make their views known and to participate fully in the Dialogues. On occasion this has resulted in the Commission taking and presenting to the Dialogue partners a view on Australian policy and practice or on the desirability of changes in the Dialogue partner's policy and practice that differs from the views of the Executive Government. The Executive Departments have not voiced criticism of the Commission for taking a different position and, in fact, the delegation leaders seem to have found this

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77 Australian Human Rights Commission, *Submission no. 17*, p. 3.

78 Australian Human Rights Commission, *Submission no. 17*, p. 3.

79 Australian Human Rights Commission, *Submission no. 17*, p. 3.

80 Australian Human Rights Commission, *Submission no. 17*, p. 3.

approach valuable in demonstrating to the Dialogue partners that pluralism is respected in Australia.<sup>81</sup>

2.81 The Commission also put forward a preference to move towards a more holistic partnership with AusAID as a way of providing:

...a more effective and cohesive service to AusAID in that we would be able to respond more quickly and effectively to, for example, new and ad hoc areas that might come up in AusAID's areas of interest where we might be able to provide support and capacity building, and the resources in terms of expertise, knowledge and staff and so on that we provide to AusAID's programs could be moved around and shifted more quickly in response to particular areas of emphasis that AusAID might want at any given point in time.<sup>82</sup>

## Community perceptions of the roles of participating agencies

2.82 ACFID held the view that AG's had a limited role and had not been 'a key player in these dialogues.'<sup>83</sup>

2.83 ACFID was also of the view that DFAT, AusAID, the Commission and NGOs could take a more coordinated approach to their liaison and consultation role both before and after the dialogues are held.<sup>84</sup>

2.84 In addition, ACFID proposed an expansion to the roles and obligations of Australian Government agencies to include:

- Close communication with the Australian Agency for International Development (AusAID);
- Liaison with other States engaged in human rights dialogues;
- Identification and completion of specific follow-up activities after each dialogue session; and
- Public disclosure of issues raised pertaining to Australia's human rights record.<sup>85</sup>

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81 Australian Human Rights Commission, *Submission no. 17*, p. 4.

82 Mr Robinson, Australian Human Rights Commission, *Transcript*, 1 February 2012, p. 2.

83 Dr Harris Rimmer, Australian Council for International Development, *Transcript*, 11 October 2011, p. 6.

84 Dr Harris Rimmer, Australian Council for International Development, *Transcript*, 11 October 2011, p. 2.

85 Australian Council for International Development, *Submission no. 14*, p. 10.

2.85 The Baha'i Community called for a clearly defined set of roles and obligations for the agencies that participate in the human rights dialogues, adding that:

...they should be defined in a way that clearly charges the parties with working to bring about real progress in the observation of international human rights standards in their respective countries. Moreover the participating agencies should also have clearly defined responsibilities to evaluate the progress of dialogue in achieving such changes.<sup>86</sup>

2.86 The FDA recommended that the 'role and obligations of participating agencies should be modified to improve the transparency and accountability of the dialogue process'.<sup>87</sup>

2.87 The CPVW recommended the roles and obligations of participating agencies include aims.<sup>88</sup>

### Additional roles for dialogue participants

2.88 Several groups that provided evidence to the inquiry also made suggestions about additional roles for agencies involved in the human rights dialogue process.

2.89 The Prisoners of Conscience Fund (PCF), the CPVW, and the VCA all suggested that Australian officials visit political prisoners and their families.<sup>89</sup>

2.90 Sydney PEN also suggested that Australian officials meet and talk to individuals whom Australia has expressed concern about. Additionally, Sydney PEN suggested conducting inspections of relevant facilities.<sup>90</sup>

2.91 DFAT noted that, while Australia does not have a specific policy to visit political prisoners, it has undertaken visits in the past which were conducted with the agreement of the relevant authority.<sup>91</sup>

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86 Australian Baha'i Community, *Submission no. 12*, p. 3.

87 NSW Falun Dafa Association, *Submission no. 16*, p. 4.

88 Committee to Protect Vietnamese Workers, *Submission no. 18*, p. 9.

89 Ms Tran, Prisoners of Conscience Fund Inc, *Transcript*, 24 February 2012, p. 6; Committee to Protect Vietnamese Workers, *Submission no. 18*, p. 6; Mr P Nguyen, Vietnamese Community in Australia, *Transcript*, 24 February 2012, p. 16.

90 Mr Beckett, Sydney PEN, *Transcript*, 1 February 2012, p. 9.

91 Department of Foreign Affairs and Trade, *Submission no. 26*, p. 2.

## Dialogue agendas

- 2.92 As noted above, DFAT arranges the agendas for the human rights dialogues with dialogue partners. Both AG's and the Commission prepare briefing material on particular agenda items.
- 2.93 The Commission also has informal discussions and meetings with AusAID and DFAT where it has an opportunity to comment informally on particular areas that would be worthwhile as topics to be included in the dialogue agenda. The Commission noted that many of their comments have been reflected in the dialogue agendas.<sup>92</sup>
- 2.94 DFAT pointed out that 'Ministerial correspondence on human rights situations in dialogue countries also informs the agenda, list of cases of concern and briefing.'<sup>93</sup>
- 2.95 In addition, DFAT also draws on submissions from NGOs and as well as 'publications of relevant human rights NGOs, for example Amnesty International and Human Rights Watch.'<sup>94</sup>
- 2.96 The agenda for the Australia-Vietnam human rights dialogue, in particular, is developed in consultation between both countries with:
- ...the country hosting the Dialogue to propose an agenda (the visiting delegation has an opportunity to suggest amendments to the proposed agenda).<sup>95</sup>
- 2.97 DFAT also held the view that the agenda for Australia's human rights dialogues with China had evolved, noting that:
- ...in the last dialogue we were able for the first time to talk about Tibet, Falun Gong, Shi Jiang, in a way that in the past China was very reluctant to do.<sup>96</sup>

## Agenda focus

- 2.98 The Committee considered whether the agenda for the human rights dialogues should focus on individual cases or broader thematic human rights concerns.

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92 Mr Robinson, Australian Human Rights Commission, *Transcript*, 1 February 2012, p. 3.

93 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 11.

94 Mr Kang, Department of Foreign Affairs and Trade, *Transcript*, 1 November 2011, p. 2; Department of Foreign Affairs and Trade, *Submission no. 20*, p. 11.

95 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 7.

96 Dr Smith, Department of Foreign Affairs and Trade, *Transcript*, 1 November 2011, p. 4.

2.99 The ICJ agreed with the view that the focus should be on individual cases rather than offering more broadly based criticism, stating:

It is a marginal issue, but I think, yes, it is. It at least shows the Chinese we are willing to engage as a friend simply expressing concerns rather than as a perpetual critic on the outside.<sup>97</sup>

2.100 ACFID stated that the focus should be balanced between individual cases and the broader thematic or systemic approach.<sup>98</sup>

2.101 ACFID added that:

...we should really be looking for structural systemic human rights reforms, and often the dialogues in our experience have been very individual case lead. I am not sure if that is the best use of those dialogues. You could do it through the post, so why do you have to do it in a bilateral dialogue? But they often seem to be very symbolic and they add to the ritualism. They bring up several issues with Indigenous Australia and the mandatory detention of asylum seekers, and then we bring up a range of individual cases and there is an impasse. So it leads to that very ritualistic type of dialogue. We would be interested in seeing a slightly wider discussion of human rights.<sup>99</sup>

2.102 DFAT stated that the dialogues focus on both individual cases as well as broader human rights issues.<sup>100</sup>

## Suggested additional themes for the agenda

2.103 A number of organisations that provided evidence to the inquiry suggested topics to include in the dialogue agenda.

2.104 A common theme suggested by the organisations was for the Australian delegation to make additional representations on individual cases of concern.<sup>101</sup>

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97 Dr Suter, International Commission of Jurists, *Transcript*, 5 September 2011, p. 12.

98 Ms Scrine, Australian Council for International Development, *Transcript*, 11 October 2011, p. 6.

99 Dr Harris Rimmer, Australian Council for International Development, *Transcript*, 11 October 2011, p. 2.

100 Ms Stokes, Department of Foreign Affairs and Trade, *Transcript*, 5 March 2012, p. 27.

101 Ms Dao, *Submission no. 2*, p. 12; Prisoners Of Conscience Fund Inc, *Submission no. 3*, p. 1; Mr Van Dai, *Submission no. 5*, p. 2; Vietnamese Community in Australia, *Submission no. 9*, p. 2; Bloc 8406, *Submission no. 10*, p. 14; Australian Council for International Development, *Submission no. 14*, p. 22; Sydney PEN Centre, *Submission no. 15*, p. 3; Falun Dafa Association of NSW Inc, *Submission no. 16*, p. 8; Vietnam Committee on Human Rights, *Submission no. 19*, p. 4; The Democratic Party of Vietnam, *Submission no. 24*, p. 2.



- 2.105 Other topics to include on the dialogues' agenda focused on the areas of:
- social and political rights;<sup>102</sup>
  - illegal organ harvesting of political prisoners;<sup>103</sup>
  - Vietnam's penal code;<sup>104</sup>
  - Indigenous languages of ethnic minorities;<sup>105</sup>
  - labour rights and trade unions;<sup>106</sup>
  - ethnic minority rights for specific communities such as Tibetans, Uyghurs, Montagnards, Hmongs, Khmer Krom;<sup>107</sup> and
  - re-education through labour.<sup>108</sup>

## Human Rights Technical Cooperation Programs

- 2.106 The Commission's submission provided a background on the HRTC program noting:

Both of the human rights technical cooperation programs operate under the framework of the Australian Government's formal human rights dialogue process with China and Vietnam. The programs are funded by the Australian Agency for International Development (AusAID) and implemented by the Commission under a Record of Understanding between the Commission and AusAID.<sup>109</sup>

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102 Mr Bourke, Australia Tibet Council, *Transcript*, 5 September 2011, p. 3.

103 NSW Falun Dafa Association, *Submission no. 16*, p. 13.

104 Ms Dao, *Submission no. 2*, p. 6; Vietnam Committee on Human Rights, *Submission no. 19*, p. 1; Mr Donnellan, Victorian Parliament, Member for Narre Warren North, *Transcript*, 24 February 2012, p. 29.

105 Mr Ala, Australian Uyghur Association, *Transcript*, 1 February 2012, p. 15.

106 Vietnamese Community in Australia, *Submission no. 9*, p. 1; Mr T Doan, Committee to Protect Vietnamese Workers, *Transcript*, 24 February 2012, p. 8.

107 Australia Tibet Council, *Submission no. 4*, p. 7; Ms Dao, *Submission no. 2*, p. 10; Vietnamese Community in Australia, *Submission no. 9*, p. 17; Mr Ala, Australian Uyghur Association, *Transcript*, 1 February 2012, p. 15.

108 Prisoners of Conscience Fund Inc, *Transcript*, 24 February 2012, p. 2; Australia Tibet Council, *Submission no. 4*, p. 11.

109 Australian Human Rights Commission, *Submission no. 17*, p. 4.

2.107 The Commission also highlighted that the next cycle of each program is approved at the regular Dialogue sessions, but:

...where this is not practical due to delays in the scheduling sessions, approval has been given out-of-session through an exchange of letters between the Dialogue partners.<sup>110</sup>

2.108 The Commission commented that the choice of topics that Australia works on with the HRTC programs partner agencies is based on a decision about:

...areas that are priorities for their work on human rights where Australia has some useful expertise to offer and where they link in with major reform programs in those countries that will give them some momentum.<sup>111</sup>

2.109 DFAT's submission added:

The program provides a mechanism for funding practical activities to promote human rights in line with the objectives of the human rights dialogues. The HRTC programs support small-scale activities that are intended to have a tangible impact on a targeted group of people. The programs also generate links between Australian and Chinese or Vietnamese human rights institutions.<sup>112</sup>

2.110 The Commission considered that the HRTC programs were good programs and reasonably well managed but acknowledged that improvements could be made:

Whilst I consider the China and Vietnam technical cooperation programs to be good programs and reasonably well managed, there is a lot of scope for improving and strengthening them to have a stronger focus on outcomes and better monitoring and evaluation to measure to those outcomes. That is what we are working very closely on with AusAID at the moment.<sup>113</sup>

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110 Australian Human Rights Commission, *Submission no. 17*, p. 6.

111 Mr Robinson, Australian Human Rights Commission, *Transcript*, 1 February 2012, p. 5.

112 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 14.

113 Mr Robinson, Australian Human Rights Commission, *Transcript*, 1 February 2012, pp. 3-4.

- 2.111 The Commission also believed that a strength of the HRTC programs is that they are 'low key':
- I think one of the strengths of the human rights technical cooperation programs is that they are fairly low-key programs, and, as a result of that, we find that the Chinese and Vietnamese participants feel comfortable, knowing that they can open up and have fairly candid discussions about issues.<sup>114</sup>
- 2.112 The Commission stated that the HRTC programs could be a valuable mechanism for extending the participation of Australian and partner countries agencies.<sup>115</sup>
- 2.113 The HRTC programs are valued at approximately A\$3.7 million per annum.<sup>116</sup>
- 2.114 Table 1 and Table 2 of DFAT's submission contains further information on the activities funded under the HRTC programs from 2006-2011.<sup>117</sup>
- 2.115 The Commission, in its submission, also provided a list of some key outcomes from the activities of the China and Vietnam HRTC Programs.<sup>118</sup>

## Human Rights Technical Cooperation Program with China

- 2.116 The HRTC program with China, which commenced in 1998, was first agreed at the inaugural Australia-China human rights dialogue 'as an avenue for providing practical capacity building for key Chinese agencies in areas relevant to human rights protection.'<sup>119</sup>
- 2.117 HRTC activities in China focus on three priority theme areas: legal reform; women's and children's rights; and ethnic minority rights.<sup>120</sup>
- 2.118 The Commission noted that 'each activity is designed and implemented through a cooperative venture between the Australian Human Rights Commission and a particular Chinese organisation.'<sup>121</sup>

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114 Mr Robinson, Australian Human Rights Commission, *Transcript*, 1 February 2012, p. 6.

115 Mr Robinson, Australian Human Rights Commission, *Transcript*, 1 February 2012, p. 1.

116 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 14.

117 Department of Foreign Affairs and Trade, *Submission no. 20*, pp. 24-56.

118 Australian Human Rights Commission, *Submission no. 17*, pp. 8 - 37.

119 Australian Human Rights Commission, *Submission no. 17*, p. 4.

120 Australian Human Rights Commission, *Submission no. 17*, p. 4.

121 Australian Human Rights Commission, *Submission no. 17*, pp. 4-5.

- 2.119 The Commission added that ‘Australian agencies and professionals from the government and community sectors contribute technical expertise to the program.’<sup>122</sup>
- 2.120 Chinese partner agencies 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 Population and Family Planning Commission;
  - State Ethnic Affairs Commission;
  - Supreme People’s Prosecution Service;
  - Supreme People’s Court; and
  - United Nations Association of China.<sup>123</sup>
- 2.121 Programs are delivered through a number of methods including: ‘seminars and workshops in China, study visits to Australia by Chinese delegations, short work placements in Australian organisations and a small number of scholarships.’<sup>124</sup>
- 2.122 HRTC projects focus on ‘domestic violence prevention, reproductive health rights, criminal justice procedures, humane treatment of detainees in correctional facilities, as well as alternatives to detention.’<sup>125</sup>
- 2.123 Approximately \$400,000 was spent on HRTC activities with China in 1997-98.<sup>126</sup> The budget for the HRTC program with China has increased considerably since the program’s inception. ‘AusAID funding for the 2010-2011 program cycle was A\$2.5 million.’<sup>127</sup>
- 2.124 AusAID funding for Australia’s aid program in China is estimated at A\$22.5 million for 2011-12, and the estimate for total Official Development Assistance (ODA) for 2011-12 is A\$35.7 million.<sup>128</sup>

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122 Australian Human Rights Commission, *Submission no. 17*, p. 5.

123 Australian Human Rights Commission, *Submission no. 17*, p. 5.

124 Australian Human Rights Commission, *Submission no. 17*, p. 5.

125 Australian Human Rights Commission, *Submission no. 17*, p. 5.

126 AusAID, *Review of China-Australia Human Rights Technical Cooperation Program*, 2007, p. 43.

127 Australian Human Rights Commission, *Submission no. 17*, p. 5.

128 AusAID, ‘China’, viewed on 5 April 2012,  
 <<http://www.aisaid.gov.au/country/country.cfm?CountryID=36&Region=EastAsia>>

## Human Rights Technical Cooperation Program with Vietnam

- 2.125 The HRTC program with Vietnam commenced in 2006 and, like the HRTC program with China, each activity is designed and implemented through a cooperative venture between the Commission and a particular Vietnamese organisation.<sup>129</sup>
- 2.126 Vietnamese partner agencies include:
- Ministry of Foreign Affairs (the lead counterpart organisation);
  - Ministry of Justice;
  - Ministry of Public Security;
  - Supreme People's Court;
  - Supreme People's Prosecution Service;
  - Vietnam Lawyers' Association; and
  - Vietnam Women's Union.<sup>130</sup>
- 2.127 HRTC projects with Vietnam focus on 'skills for conducting community education on legal rights and responsibilities, human rights training for lawyers, raising awareness of women's rights, access to the court system and administration of criminal justice.'<sup>131</sup>
- 2.128 AusAID funding for the 2010-2011 program cycle was A\$1.2 million.<sup>132</sup>
- 2.129 AusAID's ODA for Vietnam is estimated at A\$137.9 million for 2011-12, which consists of the country bilateral program (A\$102.4 million); regional and global AusAID-managed initiatives (A\$25.7 million); and other Australian Government departments (A\$9.7 million).<sup>133</sup>

## Review of the Technical Cooperation Programs

- 2.130 DFAT noted that an independent review of the HRTC programs was undertaken in 2010-11 by 'an international human rights expert (Paul Dalton) and monitoring and evaluation specialists (Rick Davies and Martine Van de Velde).'<sup>134</sup>

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129 Australian Human Rights Commission, *Submission no. 17*, p. 5.

130 Australian Human Rights Commission, *Submission no. 17*, pp. 5-6.

131 Australian Human Rights Commission, *Submission no. 17*, p. 6.

132 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 14.

133 AusAID, 'Vietnam Country Profile', viewed on 5 April 2012, <<http://www.aid.gov.au/country/vietnam/default.cfm>>

134 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 14.

2.131 DFAT added:

In the case of China, the review found that the majority of activities implemented in the past four years have been well-coordinated, with careful forward planning, participation from well-qualified experts, and good communication between the Australian Human Rights Commission (AHRC) and China's Ministry of Foreign Affairs.<sup>135</sup>

2.132 Some of the key principal recommendations from the review of the China HRTC program included:

- The potential exists to improve the quality of information flow to the human rights dialogue participants about the HRTC program;
- Greater emphasis needs to be placed on results rather than on activity-based output reporting, including the provision of systematic impact evaluations at appropriate stages throughout the implementation process by cooperating agencies and the AHRC;
- A financial management review of the HRTC program should be undertaken with a view to increasing the efficiency and cost-effectiveness of the program;
- There should also be greater clarity in the next phase of the program on the respective roles and responsibilities of AusAID, DFAT and the AHRC in providing strategic direction, ensuring accountability for achieving results against objectives and engaging with cooperating agencies; and
- The review team recommends that the program should change to a three-year cycle. A new program design should be developed through consultations between DFAT and AusAID, with the opportunity for all program stakeholders to provide inputs.<sup>136</sup>

2.133 With regard to the review of the Vietnam HRTC programs, DFAT stated:

The review found that the Vietnam-Australia Human Rights Technical Cooperation Program was making progress on its key objectives, and has had a positive effect on relations between Vietnam and Australia. Critical to achieving this progress has been the Government of Vietnam's confidence in the two Australian partner agencies, AusAID and the AHRC. Recommendations from

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135 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 14.

136 AusAID, *The China-Australia Human Rights Technical Cooperation Program, An independent review by Paul Dalton and Martine van de Velde*, February 2011, pp. 8-9.

the review, which addressed issues such as program design, monitoring and evaluation, and financial management, are being considered for incorporation into the next phase of the China and Vietnam Human Rights Technical Cooperation Programs.<sup>137</sup>

2.134 At the time of writing this report, the review of the Vietnam HRTC program was not publicly available.

## Community perceptions of the Technical Cooperation Programs

2.135 The ICJ commented that the technical cooperation programs were 'not at all widely recognised by the Australian community.'<sup>138</sup>

2.136 The Commission agreed, noting that there is little media interest in the HRTC programs.<sup>139</sup>

2.137 The Council viewed the technical cooperation programs as an 'increasingly large component of the bilateral dialogue processes.' While noting the inherent value of the HRTC programs with China, the Council was of the view that the program had the following limitations:

- they fail to address structural systemic problems in China, such as the non-independence of the judiciary;
- they are designed to address only the formal legal processes, rather than the arbitrary and extra-legal processes (such as re-education through labour) which affect millions of people in China; and
- there is a failure to consult independent NGOs in their design, implementation, monitoring and evaluation.<sup>140</sup>

2.138 The PCF alleged that foreign aid, like the HRTC programs, is not used correctly but rather that Vietnamese government officials are the direct beneficiaries of the grants.<sup>141</sup>

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137 Department of Foreign Affairs and Trade, *Submission no. 20*, pp. 14-15.

138 Dr Suter, International Commission of Jurists, *Transcript*, 5 September 2011, p. 9.

139 Mr Robinson, Australian Human Rights Commission, *Transcript*, 1 February 2012, p. 6.

140 Australia Tibet Council, *Submission no. 4*, p. 11.

141 Mr Mai, Prisoners of Conscience Fund Inc, *Transcript*, 24 February 2012, p. 1.

- 2.139 The CPVW recommended that the HRTC programs should ‘do some things that benefit the people directly.’<sup>142</sup> They added that the HRTC program should be used to ‘help true NGOs, rather than the likes of the Vietnam Women’s Union or the VGCL [Vietnam General Confederation of Labour] or the Vietnam Lawyers Association.’<sup>143</sup> They recommended providing funding to the Unified Buddhist Church of Vietnam in particular.<sup>144</sup>
- 2.140 Block 8406 stated that the HRTC program was not that effective and did not target major human rights issues such as freedom of speech, freedom to assemble and demonstrate.<sup>145</sup>

## Committee comment

- 2.141 The Committee acknowledges the value of Australia’s HRTC programs which work toward improvements in the promotion and protection of human rights through the sharing of best practice.
- 2.142 The Committee is particularly pleased to see programs that are focussed on addressing key human rights issues such as: justice, women’s and children’s rights, legal aid and rights, and domestic violence.
- 2.143 The Committee appreciates the Commission’s acceptance that there is room to improve and strengthen the programs to have a stronger focus on outcomes, better monitoring and evaluation.
- 2.144 The Committee suggests that, in addition to discussing the choice of topics that Australia works on with the HRTC programs’ partner agencies, consideration be given to consulting other government agencies, NGOs, peak human rights organisations, and other relevant groups.
- 2.145 The Committee supports the continued funding and operation of the HRTC programs.

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142 Mr Doan, Committee to Protect Vietnamese Workers, *Transcript*, 24 February 2012, p. 12.

143 Mr Doan, Committee to Protect Vietnamese Workers, *Transcript*, 24 February 2012, p. 13.

144 Mr Doan, Committee to Protect Vietnamese Workers, *Transcript*, 24 February 2012, p. 13.

145 Dr Kim-Song, Bloc 8406, *Transcript*, 24 February 2012, p. 26.



## Other issues

2.146 Although not specifically within the purview of the inquiry, ACFID expressed the view that adequate staffing at DFAT and AusAID had been a 'chronic problem over the years.'<sup>146</sup>

2.147 ACFID called for more resourcing for human rights work within DFAT and AusAID generally.<sup>147</sup> ACFID added that DFAT needed more consistent expertise, stating:

The idea is that DFAT likes to have generalists, which is a good policy, and obviously they post people. But some areas need specialist expertise – chemical weapons, human rights, ASEAN – so there has to be a balance. For things like these, which are about long-term bilateral relationships with a particular subject expertise, you do need a little bit of consistency in staffing and strategy. But, yes, in the UK, Canada and almost everywhere I have been, the state department or the relevant foreign affairs department has a much stronger human rights section – also domestically.<sup>148</sup>

2.148 ACFID also highlighted the need for human rights training, stating that:

...if there were a strong human rights training and flavour in technical expertise across the department that would be a very good thing. But some of the human rights dialogues do need some knowledge of conventions, and you do need a little bit of expertise to be able to engage in human rights discussions – particularly in this bilateral.<sup>149</sup>

2.149 ACFID noted that DFAT has graduate training in human rights but commented that everyone in the department should understand that there can be human rights dimensions to other bilateral issues.<sup>150</sup>

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146 Dr Harris Rimmer, Australian Council for International Development, *Transcript*, 11 October 2011, pp. 1-2.

147 Dr Harris Rimmer, Australian Council for International Development, *Transcript*, 11 October 2011, p. 1.

148 Dr Harris Rimmer, Australian Council for International Development, *Transcript*, 11 October 2011, p. 4.

149 Dr Harris Rimmer, Australian Council for International Development, *Transcript*, 11 October 2011, pp. 3-4.

150 Dr Harris Rimmer, Australian Council for International Development, *Transcript*, 11 October 2011, p. 4.

- 2.150 DFAT stated that it had a dedicated human rights and Indigenous issues section, which is comprised of five officers and a director. DFAT added that the section works closely with the geographic areas of DFAT and mentioned that Australia's posts were also actively engaged.<sup>151</sup>
- 2.151 DFAT contested ACFID's view of its institutional knowledge noting that it helps maintain continuity in the human rights and Indigenous area by rotating staff in and out often.<sup>152</sup>
- 2.152 DFAT added that it offers an introductory course on human rights for its graduate recruits which it is looking to expand, stating:
- Every year a number of graduate recruits come into the department and the human rights course is part of their dedicated training program. This year is the first time it has been run by the University of Sydney. We are looking to expand it next year to include officers of the department more broadly.<sup>153</sup>

## Committee comment

- 2.153 At a public hearing, DFAT advised the Committee that its geographic areas and posts are very closely involved in the human rights dialogues.<sup>154</sup>
- 2.154 As noted above, DFAT also advised that it currently only provides human rights training for its graduate recruits. The Committee notes that staff in Commonwealth government departments' are employed in a number of different ways, not just through graduate recruitment programs.
- 2.155 The Committee agrees with ACFID's view that it would be good for DFAT to have a strong human rights training and flavour in technical expertise across the department.
- 2.156 Therefore, it is the Committee's view that all relevant staff dealing with human rights issues should have an appropriate grounding in human rights principles. Having staff obtain a solid knowledge base in human rights enhances the Australia Government's efforts to take a multifaceted approach through the promotion and protection of human rights in international, bilateral, regional, and local fora.

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151 Ms Bird, Department of Foreign Affairs and Trade, *Transcript*, 1 November 2011, pp. 1-2.

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

153 Mr Kang, Department of Foreign Affairs and Trade, *Transcript*, 1 November 2011, p. 2.

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

2.157 As such, the Committee sees merit in extending DFAT and AGs current human rights training program to all relevant staff.

### **Recommendation 3**

**The Committee recommends that the Department of Foreign Affairs and Trade and the Attorney General's Department ensure that all relevant staff receive human rights education and training. The Department of Foreign Affairs and Trade should also ensure that human rights monitoring is an integral part of the duty statement for its diplomatic staff.**



## Parliamentary participation and oversight

- 3.1 The Department of Foreign Affairs and Trade's (DFAT) submission stated that the Department provided oral briefings on the human rights dialogues 'to Parliamentary Committees and individual Parliamentarians as requested.'<sup>1</sup>
- 3.2 DFAT noted that for previous human rights dialogues:
- ...the Foreign Minister formally invited the Chair of the Human Rights Sub-Committee [the Sub-Committee] of [the Joint Standing Committee on Foreign Affairs, Defence and Trade] JSCFADT, or his or her nominee, and the Shadow Foreign Minister, or his or her nominee, to participate in dialogues as members of Australia's delegations.<sup>2</sup>
- 3.3 DFAT also pointed out that, in May 2011, the Foreign Minister agreed to 'formally invite the Chair and Deputy Chair of the Human Rights Sub-Committee, or their nominees, to participate in dialogues as members of Australia's delegations.'<sup>3</sup>
- 3.4 To date, the following parliamentary representatives have been included in Australia's delegation to the human rights dialogues:
- Senator Marise Payne (11th Australia-China dialogue, 2007);
  - Ms Kerry Rea MP and Senator Helen Kroger (12th Australia-China dialogue, 2009);
  - Senator Marise Payne (4th Australia-Vietnam dialogue, 2005);

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1 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 10.

2 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 10.

3 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 10.

- Senator Marise Payne and Ms Kerry Rea MP (6th Australia-Vietnam dialogue, 2008); and
  - Mr Laurie Ferguson MP and Ms Julie Bishop MP (8th Australia-Vietnam dialogue, 2011).<sup>4</sup>
- 3.5 DFAT also stated, in its submission, that it would enhance Parliamentary engagement in the dialogue process by:
- routinely debriefing the Joint Standing Committee on Foreign Affairs, Defence and Trade (the Committee) and other interested parliamentarians after each dialogue; and
  - aiming to have delegations meet with the Committee when dialogues are held in Australia (and where Parliamentarians are available).<sup>5</sup>

## **Greater parliamentary participation**

- 3.6 The Attorney General's Department (AGs) stated that it was very supportive of parliamentary involvement, noting that greater engagement by Australian parliamentarians might lead to additional participation by parliamentarians from China and Vietnam.<sup>6</sup>
- 3.7 The NSW Falun Dafa Association (FDA) advocated for mandatory parliamentary participation in the human rights dialogues and that 'the outcomes of the Dialogue should be reported to the Parliament.'<sup>7</sup>
- 3.8 The Committee to Protect Vietnamese Workers also advocated for greater parliamentary participation and recommended:
- formalising the requirement for DFAT to invite all parliamentarians to attend the human rights dialogues, especially members of the Committee and the Senate Committee for Foreign Affairs, Defence and Trade, in the role of observers;
  - that human rights dialogues held outside Australia be held during recesses, and human rights dialogues held in Australia be arranged during sitting days; and

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4 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 10.

5 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 23.

6 Dr Boersig, Attorney General's Department, *Transcript*, 24 November 2011, p. 5.

7 Falun Dafa Association of NSW Inc, *Submission no. 16*, p. 5.

- DFAT provide reports to the Human Rights and the Foreign Affairs Sub-Committees of the Committee as well as Senate Committee for Foreign Affairs, Defence and Trade.<sup>8</sup>
- 3.9 The Vietnam Committee on Human Rights called for regular briefings for parliamentarians prior to each human rights dialogue, a debrief after each dialogue and a public hearing ‘in order to ensure public scrutiny and allow Parliament to exert a democratic control on the process.’<sup>9</sup>
- 3.10 Block 8406 was also supportive of parliamentary participation and commented that ‘a permanent presence of Australian parliamentarians in the human rights delegation to Vietnam’ should help improve the process.<sup>10</sup>
- 3.11 The International Commission of Jurists (ICJ) agreed that a more structured engagement in the dialogues by Australian parliamentarians might lead to some more representative participation by parliamentarians in China and Vietnam, but questioned the value of increased engagement.<sup>11</sup>
- 3.12 The ICJ did, however, agree that greater engagement by parliamentarians in the human rights dialogue process would improve the knowledge base of the Australian parliament on human rights issues.<sup>12</sup>
- 3.13 The Australian Council for International Development (ACFID) stated that it encouraged parliamentarians to take part in Australia’s delegation to the human rights dialogues, to visit the partner countries, and obtain as much contextual understanding as possible.<sup>13</sup> ACFID also indicated that there were many positives from greater parliamentary participation, stating:
- ...there is a type of modelling which is very important in these dialogues – seeing how our parliamentarians conduct themselves, behave, the different norms, is important. It also helps the country provide knowledge that our parliamentarians take away with them and it provides an opportunity in the democratic sense for a civil society to have some ability and transparency to ask questions of parliamentarians and to have committees like these hold publicly accountable hearings about these dialogues. So there

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8 Committee to Protect Vietnamese Workers, *Submission no. 18*, p. 7.

9 Vietnam Committee on Human Rights, *Submission no. 19*, p. 4.

10 Dr Kim-Song, Bloc 8406, *Transcript*, 24 February 2012, p. 26.

11 Dr Suter, International Commission of Jurists, *Transcript*, 5 September 2011, p. 12.

12 Dr Suter, International Commission of Jurists, *Transcript*, 5 September 2011, pp. 12-13.

13 Dr Harris Rimmer, Australian Council for International Development, *Transcript*, 11 October 2011, p. 2.

is a lot to be gained by increased parliamentary participation and oversight and we have been asking for this committee to become, in other context, its own joint committee in its own right – much like the UK Human Rights Committee – and take a stronger role generally over the years.<sup>14</sup>

## Increased involvement of the Human Rights Sub-Committee

- 3.14 Civil Liberties Australia (CLA) recommended 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.’<sup>15</sup>
- 3.15 The Australia Tibet Council (the Council) recommended that the Foreign Minister table a report in Parliament after each round of the human rights dialogue. The Council also recommended that this report be submitted to the Sub-Committee and be made available for comment by relevant NGOs. The Council added that any findings by this Sub-Committee ‘on the progress of the dialogue, along with input from relevant NGOs, should also be tabled in Parliament.’<sup>16</sup>
- 3.16 The Australian Baha’i Community supported the Committee’s comment, which it made in the review of DFAT’s Annual Report 2009-10, that:
- ...there is value of having parliamentarians, and in particular the Human Rights Sub-Committee, its Chair, Deputy Chair or other elected representatives, participate in bilateral human rights dialogues on a permanent basis; and that Australia’s human rights dialogues should be reported back to the Committee as appropriate.<sup>17</sup>

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14 Dr Harris Rimmer, Australian Council for International Development, *Transcript*, 11 October 2011, p. 2.

15 Civil Liberties Australia, *Submission no. 1*, p. 2.

16 Australia Tibet Council, *Submission no. 4*, p. 12.

17 Australian Baha’i Community, *Submission no. 12*, p. 2.



## Liaison with committee counterparts in other countries

3.17 The Council, in a public hearing, questioned whether Australia held meetings with other countries that hold human rights dialogues in order to strategise, share information, devise tactics and discuss outcomes.<sup>18</sup> The Council recommended that:

The Australian government should initiate, in conjunction with the United States and the European Union, regular meetings between those countries currently engaged in bilateral human rights dialogues with China. Such meetings would formalise interaction between China's bilateral dialogue partners, allowing outcomes of each dialogue to be shared, ideas exchanged and future agendas developed in co-operation.<sup>19</sup>

3.18 Ms Dao recommended that this Sub-Committee liaise with its human rights committee counterparts in other countries, and other concerned parliamentarians around the world, in order to apply diplomatic pressure on Vietnam.<sup>20</sup> Ms Dao highlighted that Canada, Switzerland, Norway and New Zealand (collectively known as the 'Group of Four') 'has cooperated with regard to development and human rights issues in Vietnam since 2001, with a particular focus on ethnic minorities and religious groups.'<sup>21</sup>

3.19 Representatives from the Group of Four also 'make annual visits to provinces containing large ethnic minority communities, to observe and assess the 'grass-roots' situation on the ground, as part of the four embassies' ongoing dialogue with the Vietnamese Government on these issues.'<sup>22</sup>

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18 Mr Bourke, Australia Tibet Council, *Transcript*, 5 September 2011, p. 7.

19 Australia Tibet Council, *Submission no. 4*, p. 12.

20 Ms Dao, *Submission no. 2*, p. 13.

21 Ms Dao, *Transcript*, 24 February 2012, p. 45; Norway Embassy in Viet Nam, 'Human Rights Dialogue between Vietnam and Norway', viewed on 9 April 2012, <<http://www.norway.org.vn/Embassy/bilateral/Human-Rights/Human-Rights-Dialogue-between-Vietnam-and-Norway/>>

22 Norway Embassy in Viet Nam, 'Human Rights Visit to Central Highlands', viewed on 9 April 2012, <[http://www.norway.org.vn/News\\_and\\_events/Human-rights-visit-to-Central-Highlands/](http://www.norway.org.vn/News_and_events/Human-rights-visit-to-Central-Highlands/)>

- 3.20 ACFID agreed with the view that Australia should partner with other countries who have human rights dialogues, noting that:

It might make it meaningful to partner with, say, New Zealand and Canada. I am not sure we would always have the same position as the EU [European Union].<sup>23</sup>

- 3.21 DFAT noted that Australia has had ‘informal consultations among countries that have human rights dialogues.’<sup>24</sup> DFAT added that while the consultations are helpful in terms of shared knowledge, there ‘is a sensitivity on the part of the countries concerned’ that consultations are to be held in private.<sup>25</sup>

## Committee Comment

- 3.22 The Committee notes that a number of other countries hold human rights dialogues with China and Vietnam including the United States, the United Kingdom, Norway, Switzerland, and the European Union.
- 3.23 The Committee is of the view that it would be beneficial to explore how other states conduct their human rights dialogues and whether the dialogue process is similar. In addition, the Committee suggests that Australia consider implementing a broader and more cooperative exchange of ideas with other countries that hold ongoing human rights dialogues with China and Vietnam.

## Additional parliamentary involvement

- 3.24 Ms Dao made a number of suggestions about parliamentary participation, not only as part of the human rights dialogue, but also more broadly.
- 3.25 Ms Dao suggested that the Australian Parliament invite Vietnam’s prominent human rights advocates, including individuals in prison or under house arrest, to visit Australia and address the Parliament in order to increase understanding and broaden support for the human rights cause in Vietnam.<sup>26</sup> Ms Dao added that these ‘invitations may not be taken
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23 Dr Harris Rimmer, Australian Council for International Development, *Transcript*, 11 October 2011, p. 7.

24 Ms Stokes, Department of Foreign Affairs and Trade, *Transcript*, 5 March 2012, p. 19.

25 Ms Stokes, Department of Foreign Affairs and Trade, *Transcript*, 5 March 2012, p. 19.

26 Ms Dao, *Submission no. 2*, p. 12.

up, but they are important symbolic gestures of solidarity and support for the oppressed people of Vietnam.<sup>27</sup>

3.26 In addition to inviting political prisoners to address Parliament, Ms Dao also recommended that each parliamentarian adopt a prisoner of conscience<sup>28</sup> in Vietnam which would involve regular correspondence with a prisoner of conscience and seeking regular updates about their condition at bilateral meetings.<sup>29</sup> Ms Dao also suggested that 'Australian parliamentarians lend their signatures to petition letters demanding the release of all prisoners of conscience in high level talks.'<sup>30</sup>

3.27 Ms Dao also recommended that:

- this Sub-Committee [the Human Rights Sub-Committee of the Joint Standing Committee on Foreign Affairs Defence and Trade] nominate dissidents who have a long record of fighting for human rights and democracy by peaceful means for Nobel Peace prize and other high profile human rights awards; and
- Australian government to bestow an annual human rights award to select HR advocates from Vietnam, and possibly from other parts of the world as well.<sup>31</sup>

## Committee comment

3.28 The Committee has received substantial evidence for this inquiry calling for greater parliamentary participation, and in particular, participation from members of the Human Rights Sub-Committee.

3.29 The Committee agrees that the Chair and Deputy Chair of the Human Rights Sub-Committee, of the Joint Standing Committee on Foreign Affairs, Defence and Trade, should be able to participate in all the human rights dialogues.

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27 Ms Dao, *Submission no. 2*, p. 12.

28 A prisoner of conscience is defined as: Any person who is physically restrained (by imprisonment or otherwise) from expressing (in any form of words or symbols) any opinion which he honestly holds and which does not advocate or condone personal violence. Peter Benenson, 'The Forgotten Prisoners', *The Observer*, 28 May 1961.

29 Ms Dao, *Submission no. 2*, p. 12.

30 Ms Dao, *Submission no. 2*, p. 12.

31 Ms Dao, *Submission no. 2*, p. 13.

- 3.30 The Committee recognises the importance of this participation being properly funded and facilitated. This is now particularly pertinent as parliamentarians are no longer able to use their entitlements to travel to the dialogues. The Committee is of the view that any costs relating to parliamentary participation in the human rights dialogues be borne by DFAT.
- 3.31 The Committee also acknowledges the difficulties in obtaining confirmation from the dialogue partner countries about when the next dialogues will be scheduled. However, the Committee would strongly urge DFAT to take into account the schedule of the invited parliamentarians when liaising with the partner countries.
- 3.32 Input from parliamentarians remains essentially impossible unless reasonable notice is given about the dialogues and unless participation is appropriately funded and facilitated.

#### **Recommendation 4**

**The Committee recommends that the Chair and Deputy Chair of the Human Rights Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade, or their nominees, participate in the Human Rights Dialogues as members of Australia's delegations. Participation must be properly funded and facilitated.**

- 3.33 The Committee would also call on DFAT and AGs to provide a briefing to the Human Rights Sub-Committee, of the Joint Standing Committee on Foreign Affairs, Defence and Trade, as soon as practicable prior to and after each human rights dialogue.

#### **Recommendation 5**

**The Committee recommends that the Department of Foreign Affairs and Trade and the Attorney General's Department provide a briefing to the Human Rights Sub-Committee, of the Joint Standing Committee on Foreign Affairs, Defence and Trade, as soon as practicable prior to and after each human rights dialogue.**

## Involvement of non-government organisations

- 4.1 Civil Liberties Australia (CLA) submitted that both civil society and non-government organisations (NGOs) played a positive role in the human rights dialogue process adding that the ‘involvement of independent NGOs would bring greater transparency and credibility to the process and lead to more effective outcomes.’<sup>1</sup>
- 4.2 The Australian Baha’i Community agreed that the dialogue process would benefit from greater involvement of NGOs. The Baha’i Community expanded on their view, stating that greater NGO involvement:
- would bring the NGOs unique expertise and experience to the dialogue process;
  - would offer a dynamic example in practice of the constructive role civil society can play in promoting and protecting human rights;
  - would have the benefit of bringing greater transparency and credibility to the dialogue process; and
  - could assist in creating or strengthening links between Australian NGOs and NGOs working to address human rights issues in the countries with which Australia conducts its dialogues.<sup>2</sup>
- 4.3 The Baha’i Community also expressed a view that NGOs could play a potential role in the monitoring and assessment of the outcomes of human rights dialogues.<sup>3</sup>

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1 Civil Liberties Australia, *Submission no. 1*, p. 2.

2 Australian Baha’i Community, *Submission no. 12*, p. 2.

3 Australian Baha’i Community, *Submission no. 12*, p. 2.

4.4 The Baha'i Community added that it was 'important that the NGOs involved in dialogue be genuine and independent organisations with an established track record of defending human rights, and not government-sponsored organisations.'<sup>4</sup>

4.5 The Baha'i Community recommended that an NGO forum be held both before and after the dialogues in order for NGOs to brief members of the Australian delegation:

The other area in which we see potential for a greater involvement of NGOs is in helping to prepare the delegations before the dialogues and in meeting with them afterwards about the results. In this respect we have highlighted the previous recommendation of the committee that the dialogues be preceded by a forum at which NGOs can brief delegation members. It seems to us that this may be a more constructive and effective process than the current one by which NGOs are simply invited to provide a written document to the department.<sup>5</sup>

4.6 The NSW Falun Dafa Association (FDA) recommended that the Australian Government hold a 'briefing/ forum with local NGOs before and after the human rights dialogue, and that the dialogue supports the involvement of both local and Chinese NGOs without the censorship of the Chinese Communist Party.'<sup>6</sup> The FDA added:

Truly allowing a Chinese delegation to engage in substance and detail with Australian NGO counterparts would lead to better understanding of human rights issue in China, and could help raise awareness and desire for implementation of UN human rights instruments.<sup>7</sup>

4.7 The Committee to Protect Vietnamese Workers (CPVW) suggested that NGOs attend the human rights dialogues as observers, adding that it would make the dialogues publicly transparent and accountable.<sup>8</sup> The CPVW recommended:

- DFAT [Department of Foreign Affairs and Trade] should invite NGOs to attend the Dialogues as observers. The invitation should be sent to NGOs which have registered their interest to receive invitations. A passive invitation, which requires NGOs

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4 Australian Baha'i Community, *Submission no. 12*, p. 2.

5 Dr Mobini, Australian Baha'i Community, *Transcript*, 20 September 2011, p. 2.

6 NSW Falun Dafa Association, *Submission no. 16*, p. 5.

7 NSW Falun Dafa Association, *Submission no. 16*, p. 5.

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

to frequently check and look for in DFAT's website, should not be relied on as the main method;

- NGOs should have the right to make public comments outside the Dialogues based on their observations. The only exceptions would be specific details provisionally nominated by DFAT as requiring non-disclosures on national security or privacy grounds, subject to later confirmation by the Parliament;
- to assist Australian NGOs that find it hard to afford the travel costs to Canberra, Vietnam, or China, they should be given assistance with airfares; and
- as the Chinese and Vietnamese authorities have been known to arrest or beat up anyone they do not like, DFAT should provide diplomatic protection and safety monitoring during Australian NGOs' time in these countries.<sup>9</sup>

4.8 The Australia Tibet Council (the Council) indicated that it would be beneficial if DFAT held a meeting with NGOs prior to a dialogue to obtain feedback and strategise on the approach.<sup>10</sup> The Council also recommended 'establishing parallel dialogues between NGOs, human rights experts, academics and other interest groups from each country.'<sup>11</sup> The Council added that the 'dialogue should involve participation of NGOs and representatives from civil society working in the human rights area in Tibet and China.'<sup>12</sup>

4.9 The Vietnamese Community in Australia (VCA) also suggested a similar proposal to the Council, recommending that:

...an Australian Human Rights Advisory Group be set up comprising representatives of the Human Rights Sub-Committee, DFAT/AusAID and relevant NGOs such as the VCA (who are entitled to observe the HR Dialogues when they are held in Australia).<sup>13</sup>

4.10 Block 8406 indicated that it was important to involve NGOs in the human rights dialogue process.<sup>14</sup>

4.11 The Unified Vietnamese Buddhist Congregation of Australia and New Zealand also indicated that a select group of NGOs should participate in the human rights dialogues.<sup>15</sup>

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9 Committee to Protect Vietnamese Workers, *Submission no. 18*, p. 8.

10 Mr Bourke, Australia Tibet Council, *Transcript*, 5 September 2011, p. 7.

11 Australia Tibet Council, *Submission no. 4*, p. 12.

12 Ms Kyinzom, Australia Tibet Council, *Transcript*, 5 September 2011, p. 2.

13 Vietnamese Community in Australia, *Submission no. 9*, p. 4.

14 Dr Kim-Song, Bloc 8406, *Transcript*, 24 February 2012, p. 26.

- 4.12 The Australian Council for International Development (ACFID) put forward a view that Australia does not take a coordinated approach to the dialogues, noting that there are not many strategic conversations between NGOs, DFAT, the Commission, and AusAID and no feedback after the dialogues.<sup>16</sup>
- 4.13 ACFID noted that it had been invited to give comments or submit a report in advance of the human rights dialogues, but that the invitation is usually at very short notice and there is no discussion or interaction after the comments are provided.<sup>17</sup>
- 4.14 ACFID wanted 'to see a planned, pragmatic but strategic approach that sees NGOs as possible partners to make the dialogues more effective.'<sup>18</sup> ACFID also stated that it 'would like a performance indicator or a benchmark to bear how meaningful is the participation of NGOs and the process.'<sup>19</sup>
- 4.15 ACFID added that 'Australia should also highlight with all countries involved in human rights dialogues its expectations that civil society will be consulted and actively involved in the dialogue processes.'<sup>20</sup>
- 4.16 The Australian Human Rights Commission (the Commission) supported the involvement of NGOs in the dialogues stating that 'they are a valuable source of information and experience and their participation gives the dialogue process added credibility, transparency and accountability.'<sup>21</sup>
- 4.17 The Commission also pointed out that the Human Rights Technical Cooperation (HRTC) Programs are good at engaging very large number of Australian organisations, including NGOs, 'in quite in-depth discussions with their Chinese and Vietnamese counterparts about practical measures to improve human rights.'<sup>22</sup> The Commission added that it asks Australian NGOs, who provide technical input into the HRTC programs,

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15 Most Venerable Thich Quang Ba, Unified Vietnamese Buddhist Congregation of Australia and New Zealand, *Transcript*, 1 February 2012, pp. 25-26.

16 Dr Harris Rimmer, Australian Council for International Development, *Transcript*, 11 October 2011, p. 2.

17 Ms Scrine, Australian Council for International Development, *Transcript*, 11 October 2011, p. 5.

18 Dr Harris Rimmer, Australian Council for International Development, *Transcript*, 11 October 2011, p. 1.

19 Dr Harris Rimmer, Australian Council for International Development, *Transcript*, 11 October 2011, p. 2.

20 Australian Council for International Development, *Submission no. 14*, p. 8.

21 Australian Human Rights Commission, *Submission no. 17*, p. 6.

22 Mr Robinson, Australian Human Rights Commission, *Transcript*, 1 February 2012, p. 1.



to provide either written or verbal reports to monitor and evaluate the programs.<sup>23</sup>

4.18 The Commission stated that the Australian Government should maintain its initiatives to engage NGOs including:

...seeking written submissions from interested NGOs for incorporation into the brief which DFAT provides to Australian delegates, raising their concerns during the formal Dialogue session and providing debriefs on the Dialogues during the regular DFAT-NGO consultations on human rights and on other occasions.<sup>24</sup>

4.19 It also suggested exploring a few ways in which NGO engagement could be enhanced:

...inviting NGOs to attend the Dialogue meetings in an observer capacity, holding informal seminars with NGOs in conjunction with the formal Dialogue, and conducting 'parallel Dialogues' involving NGOs, academics and legal experts at the same time as, but separate from, the government meeting.<sup>25</sup>

4.20 The Commission, however, also highlighted some concerns with any increase in NGO engagement:

- maintaining the trust and confidence of the overseas dialogue partners also means that steps to increase the engagement of NGOs needs to be pursued carefully and with sensitivity;
- while most NGOs would be acceptable to dialogue partners there would be some that would be considered unacceptable as direct interlocutors;
- efforts to secure direct involvement of NGOs could make the dialogues unmanageable and unfruitful; and
- reaching a point where Australian and overseas NGOs achieve an optimum level of involvement in the Dialogues will inevitably be an incremental process.<sup>26</sup>

4.21 Ms Dao expressed a concern about the independence of NGOs in Vietnam and suggested that:

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23 Mr Robinson, Australian Human Rights Commission, *Transcript*, 1 February 2012, p. 3.

24 Australian Human Rights Commission, *Submission no. 17*, p. 6.

25 Australian Human Rights Commission, *Submission no. 17*, p. 6.

26 Australian Human Rights Commission, *Submission no. 17*, p. 7.

...Australia no longer involves government-organised human rights organisations in Vietnam in the human rights dialogue process unless there is evidence that they have helped bring about basic freedoms such as freedom of expression, freedom of the press and freedom of information for the people of Vietnam.<sup>27</sup>

- 4.22 The Vietnam Committee on Human Rights (VCHR) also expressed concerns about the independence of NGOs in Vietnam, stating:

There are no independent associations, trade unions, human rights NGOs or civil society organisations in Vietnam. All associative activity is controlled by the Communist Party and the Vietnam Fatherland Front, a para-governmental umbrella body of 'mass organisations'.<sup>28</sup>

- 4.23 ACFID also queried the independence of China and Vietnam's civil society organisations, stating:

...sometimes they [China or Vietnam] would say they have got NGOs on their delegation but we might query whether they are civil society organisations in the way we would understand civil society organisations. They are heavily linked to government.<sup>29</sup>

- 4.24 The VCHR did, however, call for Australian NGOs to be briefed and debriefed before and after the human rights dialogues and for international and Australian NGOs to provide input into the Human Rights Technical Cooperation Program.<sup>30</sup>

- 4.25 In its submission, DFAT noted that it seeks submissions from non-government organisations (NGOs) for possible issues to be raised at the human rights dialogues. DFAT stated:

Since the HRDs were reviewed in 2005 by the [Joint Standing Committee on Foreign Affairs, Defence and Trade] JSCFADT, and in order to ensure Australian delegations to the dialogues are aware of the views and interests of NGOs, before each round of dialogue, DFAT writes to interested NGOs seeking their input and suggestions for issues to be raised at the dialogue. Submissions are collated and provided to members of the Australian delegation, and inform the briefing prepared for the delegation. NGO input

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27 Ms Dao, *Transcript*, 24 February 2012, p. 40.

28 Vietnam Committee on Human Rights, *Submission no. 19*, p. 3.

29 Dr Harris Rimmer, Australian Council for International Development, *Transcript*, 11 October 2011, p. 5.

30 Vietnam Committee on Human Rights, *Submission no. 19*, pp. 4-5.

has been helpful in preparing the lists of individual human rights cases handed over in connection with each round of dialogue.<sup>31</sup>

4.26 DFAT commented that it:

- seeks submissions from a pool of NGOs that it consults on a regular basis on general human rights issues;
- works with umbrella NGOs such as ACFID and the Australian Forum of Human Rights Organisations;
- provided information on the dialogues in response to ministerial correspondence from NGOs, community groups and individuals; and
- runs regular DFAT-NGO human rights consultations which contain a segment which allows NGOs to ask questions following presentations given on the outcomes of the China and Vietnam human rights dialogues.<sup>32</sup>

4.27 According to the DFAT Annual Report 2010-11, in June 2011 'the department co-hosted the second Australian Government – NGO Human Rights Forum with the Attorney-General's Department.'<sup>33</sup>

4.28 DFAT pointed out that its engagement with NGOs had been ad-hoc to date but was of the view that it could make it more systematic and regular, stating:

- we are looking to ensure that both before and after each of the dialogues we have a systematic engagement with NGOs;
- we can do much more in the post-dialogue sense to provide feedback to the NGOs; and
- we are looking to try to get more integration of NGOs into the program, to the extent that our counterpart country will commit.<sup>34</sup>

4.29 DFAT indicated that it would be taking the following steps to enhance NGO involvement:

- giving NGOs a longer lead time for making submissions prior to dialogues, before dates are confirmed;

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31 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 11.

32 Mr Kang, Department of Foreign Affairs and Trade, *Transcript*, 1 November 2011, pp. 2-3; Department of Foreign Affairs and Trade, *Submission no. 20*, p. 11.

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

34 Ms Bird, Dr Smith, Department of Foreign Affairs and Trade, *Transcript*, 1 November 2011, pp. 2-3.

- routinely de-briefing NGOs after each dialogue; and
  - expanding the interaction between Australian NGOs and visiting delegations (noting that NGOs cannot be present during all interactions).<sup>35</sup>
- 4.30 DFAT, at a public hearing, acknowledged that it would be sensible to initiate a report back mechanism to increase its engagement with NGOs.<sup>36</sup>

## **Non-government organisations' involvement in the China dialogue**

- 4.31 Prior to the 14<sup>th</sup> Australia-China Human Rights Dialogue DFAT wrote to nineteen NGOs inviting them to make a submission.<sup>37</sup>
- 4.32 Prior to the 13<sup>th</sup> Australia-China Human Rights Dialogue, DFAT wrote to seventeen NGOs inviting them to make a submission and received twelve submissions. DFAT added that it received submissions from six of those NGOs.<sup>38</sup>
- 4.33 Prior to the 12<sup>th</sup> Australia-China Human Rights Dialogue, DFAT wrote to nineteen NGOs inviting them to make a submission and received twelve submissions in response.<sup>39</sup>
- 4.34 A list of all the NGOs that DFAT has written to inviting submissions in advance of the human rights dialogues with China since 2009 is provided at Appendix E.
- 4.35 DFAT advised that 'NGO representatives are not part of the official Australian delegation to the Australia-China HRD.'<sup>40</sup> DFAT added that it facilitates contact between NGOs and the Chinese delegation by inviting Australian NGO representatives to attend human rights dialogue events that run parallel to the formal dialogue when Australia is hosting the dialogue and briefing NGOs following a dialogue.<sup>41</sup>

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35 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 23.

36 Ms Stokes, Department of Foreign Affairs and Trade, *Transcript*, 5 March 2012, p. 15.

37 Department of Foreign Affairs and Trade, *Submission no. 26*, p. 4.

38 Department of Foreign Affairs and Trade, *Submission no. 26*, p. 7.

39 Department of Foreign Affairs and Trade, *Submission no. 26*, p. 8.

40 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 11.

41 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 11.

- 4.36 DFAT indicated that it has regular contact throughout the year with Tibet supporters and other NGOs interested in China either through meetings or on the phone.<sup>42</sup>
- 4.37 DFAT also highlighted that Chinese civil society organisations met with an Australian delegation for the first time as part of the 13<sup>th</sup> human rights dialogue in Beijing in 2010.<sup>43</sup>

## **Non-government organisations' involvement in the Vietnam dialogue**

- 4.38 Prior to the 8<sup>th</sup> Australia-Vietnam Human Rights Dialogue DFAT wrote to seven NGOs inviting them to make a submission and received two submissions in response.<sup>44</sup>
- 4.39 Prior to the 7<sup>th</sup> Australia-Vietnam Human Rights Dialogue, DFAT wrote to the 'Australian Forum of Human Rights Organisations requesting the Forum to distribute the notice to interested NGOs.' At that time, DFAT received four submissions.<sup>45</sup>
- 4.40 A list of all the NGOs that DFAT has written to inviting submissions in advance of the human rights dialogues with Vietnam since 2009 is provided at Appendix E.
- 4.41 DFAT advised the Committee that the NGOs involved in the Australia-Vietnam human rights dialogue are engaged in a similar way with:
- Ad-hoc briefing sessions for NGOs on the outcomes of the Australia-Vietnam Human Rights Dialogue;
  - NGO representatives attending human rights dialogue events that run parallel to the formal dialogue when Australia is hosting; and
  - regular contact throughout the year with NGOs interested in Vietnam either through meetings or on the phone.<sup>46</sup>
- 4.42 DFAT added that the Vietnamese community actively writes to the Foreign Affairs Minister throughout the year, stating:

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42 Mr Rowe, Department of Foreign Affairs and Trade, *Transcript*, 1 November 2011, p. 3.

43 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 11.

44 Department of Foreign Affairs and Trade, *Submission no. 26*, p. 4.

45 Department of Foreign Affairs and Trade, *Submission no. 26*, p. 7.

46 Department of Foreign Affairs and Trade, *Submission no. 20*, p. 11; Mr Borrowman, Department of Foreign Affairs and Trade, *Transcript*, 1 November 2011, p. 3.

Another important tool of liaison with the community about human rights, not only in terms of the dialogues but also throughout the year, is ministerial correspondence. The Vietnamese community is very active in the ministerial correspondence sphere – less so in coming to see us.<sup>47</sup>

## Broader role for non-government organisations

- 4.43 Two organisations, Block 8406 and the ICJ, suggested a broader role that NGOs could play outside the work of the human rights dialogues.
- 4.44 Block 8406 advocated for a broader NGO role recommending that the Australian Government establish a local visiting team, comprised of staff from NGOs and the local Diplomatic Post as well as Vietnamese Australians, to periodically visit target cases and file appropriate reports.<sup>48</sup>
- 4.45 The ICJ suggested that the Australian Government allow NGOs to receive tax deductible donations from the general public make to conduct human rights public education and public efficacy programs to stimulate more of a debate.<sup>49</sup> The ICJ submitted that NGOs were more successful than the Australian Government in communicating a message and acknowledged that the Australian Government would have no control over how the message was communicated.<sup>50</sup>

## Committee comment

- 4.46 NGOs, civil society, and the Diaspora communities in Australia all play an important role in the human rights dialogue process, as well as more broadly in the protection and promotion of human rights both nationally and internationally.
- 4.47 To date, DFAT's engagement with this wider human rights caucus has been ad-hoc at best. Input is only sought from a select number of groups and feedback on that input is only provided by DFAT upon making a specific request.

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47 Mr Borrowman, Department of Foreign Affairs and Trade, *Transcript*, 1 November 2011, p. 3.

48 Bloc 8406, *Submission no. 10*, p. 2.

49 Mr Suter, International Commission of Jurists, *Transcript*, 5 September 2011, p. 10.

50 Mr Suter, International Commission of Jurists, *Transcript*, 5 September 2011, pp. 10-11.

- 4.48 The Committee appreciates DFAT's acknowledgement that its engagement with the human rights caucus could be more systematic and regular and that it would be appropriate to initiate a report back mechanism.
- 4.49 The Committee therefore recommends that the Australian Government establish a human rights web portal that provides a central access point for all human rights matters for the Australian Government, NGOs, civil society, the Diaspora communities in Australia, and concerned individuals.
- 4.50 The web portal should link users directly with news, reports and explanatory information, both nationally and internationally, from DFAT, AGs, AusAID, the Commission and other resources.
- 4.51 Establishing a human rights web portal will enable these Departments and agencies to improve their reporting of human rights, the human rights dialogues and its HRTC programs, as well as increase the transparency of Australia's efforts to promote and protect human rights.
- 4.52 The web portal should contain an area dedicated to Australia's human rights dialogues which, in addition to providing users with information about the dialogues, allows users to send in submissions or reports about human rights abuses and receive feedback.

## Recommendation 6

**The Committee recommends that the Australian Government establish a human rights web portal that provides a central access point for all human rights matters for the Australian Government, non-government organisations, civil society, the diaspora communities in Australia, and concerned individuals.**

- 4.53 The Committee notes that DFAT and AGs co-host the Australian Government - NGO Human Rights Forum. While this forum is an opportunity to provide briefings on measures the Government is taking to protect and promote human rights at home and abroad, a very small component is focused on Australia's human rights dialogues. The Forum also provides little opportunities for active debate on the issues.
- 4.54 The Committee sees merit in establishing a biennial meeting between DFAT, AGs, NGOs, civil society, the Diaspora communities in Australia, and concerned individuals to discuss Australia's human rights dialogues.

- 4.55 The biennial meeting should be held alternately in Melbourne, Sydney and Brisbane to ensure that each community has an opportunity to provide input into the human rights dialogue process.

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**Recommendation 7**

**The Committee recommends that the Australian Government establish a biennial meeting, to be held alternately in Melbourne, Sydney, and Brisbane, with non-government organisations, civil society, the Diaspora communities in Australia, and concerned individuals to discuss Australia's human rights dialogues.**



## Reporting requirements and mechanisms

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

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

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

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

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

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

### Reporting via the website

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

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

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

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

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

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

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

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

## Reporting via annual reports

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Reporting on the Human Rights Technical Cooperation Program

### AusAID

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

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

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

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

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

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

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

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

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

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

## Australian Human Rights Commission

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

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

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

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

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

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

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

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

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

## Community perceptions on reporting of the dialogues

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

5.28 ACFID submitted:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



## Community suggestions for enhanced reporting

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

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

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

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

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

5.43 The CPVW added:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Committee comment

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

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

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

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

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

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

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

### **Recommendation 8**

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

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

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

## Monitoring and evaluation of outcomes

### **Current level of monitoring and evaluation**

#### Australia's human rights dialogues

- 6.1 The Department of Foreign Affairs and Trade (DFAT) noted the difficulty linking specific improvements in human rights to Australia's human rights dialogues, stating:

While our dialogues contribute to change through information exchange, technical assistance and capacity-building, and awareness-raising, we are realistic about attributing specific human rights outcomes solely to specific dialogues. Assessing the direct impact of dialogues on positive developments in partner countries is difficult. The process of change on human rights issues is incremental and is the result of a range of contributing factors including internal developments in the countries concerned. Where positive changes in dialogue partners' approach to human rights do happen, these changes are almost always the result of a combination of factors...<sup>1</sup>

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1 Department of Foreign Affairs and Trade, *Submission No. 20*, p. 17.

6.2 DFAT elaborated:

We are careful, though, and realistic about attributing a specific human rights improvement to the fact that we raised it in the dialogue. We like to think that that has had an impact. We think the fact that we raised them in those dialogues, as we do in other multilateral gatherings, helps but it is very hard to say, 'Because we raised it, there was X outcome.'<sup>2</sup>

6.3 DFAT noted, however, that it did make qualitative judgements about the dialogues, stating:

...there are things that we can point to and it is more qualitative than quantitative. We do judge it by things such as the frankness of the dialogue and our ability to raise and pursue all issues of concern, including individual cases. That has improved over time.<sup>3</sup>

6.4 In relation to outcomes from the Australia-China dialogue, DFAT was of the view that raising individual cases of concern has led to positive outcomes:

We do get feedback from released prisoners and from the reports we read from NGOs that suggest that those prisoners who are subject to international attention, including from foreign governments, are more likely to receive better treatment than otherwise – meaning that, in some cases, their sentences may be reduced. But we obviously have to be cautious in drawing too much of a causal link to that.<sup>4</sup>

6.5 DFAT also commented that raising individual cases of concern as part of the Australia-Vietnam dialogue may have led to individuals being released from prison but noted that:

It is difficult to draw a direct link between specific representations made in the HRD [human rights dialogue] context and releases of individuals on our cases of concern lists, although international representations on such cases do play a role.<sup>5</sup>

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2 Ms Bird, Department of Foreign Affairs and Trade, *Transcript*, 1 November 2011, p. 4.

3 Ms Bird, Department of Foreign Affairs and Trade, *Transcript*, 1 November 2011, p. 4.

4 Dr Smith, Department of Foreign Affairs and Trade, *Transcript*, 1 November 2011, p. 4.

5 Department of Foreign Affairs and Trade, *Submission No. 20*, p. 19.

## Human Rights Technical Cooperation Programs

- 6.6 As noted in Chapter two, the human rights dialogue includes a Human Rights Technical Cooperation (HRTC) program.<sup>6</sup>
- 6.7 In its submission, DFAT observed that the HRTC program is monitored by the Australian Human Rights Commission (the Commission):
- Each activity that takes place under one of the HRTC programs is monitored and reported on by both the Australian Human Rights Commission and the relevant Chinese or Vietnamese partner agency.<sup>7</sup>
- 6.8 The Commission was of the view that ‘technical cooperation in human rights is an important vehicle for achieving practical outcomes from the human rights dialogue process.’<sup>8</sup>
- 6.9 In its submission, the Commission provided a list of some key outcomes from the activities of the China and Vietnam HRTC Programs.<sup>9</sup>
- 6.10 Also noted in Chapter two, an independent review of the HRTC programs was undertaken in 2010-11.<sup>10</sup>
- 6.11 The Commission acknowledged that there was scope to have a stronger focus on monitoring and evaluation, stating:
- Whilst I consider the China and Vietnam technical cooperation programs to be good programs and reasonably well managed, there is a lot of scope for improving and strengthening them to have a stronger focus on outcomes and better monitoring and evaluation to measure to those outcomes. That is what we are working very closely on with AusAID at the moment.<sup>11</sup>

## Community perceptions of monitoring and evaluation

- 6.12 Many non-government organisations, ethnic community groups and individuals expressed concerns about the perceived lack of any monitoring and evaluating of dialogue outcomes.

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6 See paragraph 2.6, Chapter 2.

7 Department of Foreign Affairs and Trade, *Submission No. 20*, p. 17.

8 Australian Human Rights Commission, *Submission No. 17*, p. 7.

9 Australian Human Rights Commission, *Submission no. 17*, pp. 8-37.

10 See paragraph 2.129, Chapter 2.

11 Mr Robinson, Australian Human Rights Commission, *Transcript*, 1 February 2012, pp. 3-4.

- 6.13 The Australia Tibet Council (the Council) said that it believes there is no attempt to monitor and evaluate outcomes:

...Australia's approach to the dialogue has no articulation of expected outcomes, no time line over which progress might be measured, no benchmark for measuring success and no evaluation process. So this raises the question: is this dialogue an end in itself?<sup>12</sup>

- 6.14 The Australian Council of Trade Unions (ACTU) held the view that at present there is no means of determining if the dialogues 'contribute to any tangible outcomes.'<sup>13</sup>

- 6.15 The Australian Council for International Development (ACFID) told the Committee that without objectives and benchmarks, the dialogues may not contribute to human rights progress:

Without clear objectives, timelines for desired outcomes and benchmarks for evaluation, countries may participate in a bilateral dialogue process as a means to avoid public condemnation of their human rights record. Australia risks compliance in a dialogue process that offers only an illusion of progress on human rights issues, rather than contributing to authentic improvements in human rights.<sup>14</sup>

- 6.16 The Australian Baha'i Community called for reporting that was focused on outcomes. They noted that such reporting:

...could be achieved by setting benchmarks for the dialogue, against which progress and outcomes could be measured and reported.<sup>15</sup>

- 6.17 Civil Liberties Australia (CLA) held the view that DFAT does not measure the outcomes of the dialogues appropriately, stating:

[DFAT] cannot measure it because [DFAT] has not done the work in the first place to put in place the proper objective measures that are possible. They are difficult but they are possible. You cannot have a department that measures its ability to operate by 'I think we have some successes'.<sup>16</sup>

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12 Ms Kyinzom, Australia Tibet Council, *Transcript*, 5 September 2011, p. 1.

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

14 Australian Council for International Development, *Submission No. 14*, p. 6.

15 Australian Baha'i Community, *Submission No. 12*, p. 5.

16 Mr Rowlings, Civil Liberties Australia, *Transcript*, 7 February 2012, p. 3.



- 6.18 The Council and the Vietnamese Community in Australia (VCA) specifically commented on the outcomes of the human rights dialogues with China and Vietnam.
- 6.19 The Council noted its perception that the Australia-China dialogue has not achieved any outcomes in Tibet since 1997:
- It has not seen a tangible outcome from the dialogue process on the human rights situation in Tibet which in fact has only worsened over the years.<sup>17</sup>
- 6.20 The VCA said that in their view, the outcomes recorded in the Australia-Vietnam human rights dialogue were in areas peripheral to improving human rights, stating:
- ...we read the so-called outcomes of this dialogue over a long time, and what we noticed was they seem to emphasise the improvement of human rights in the so-called peripheral areas, such as education, health and so on. They are all important. However, one of the most important things in dictatorial regimes and regimes of concern is the voice of the people, and the independence of the media.<sup>18</sup>

## Community suggestions for enhanced monitoring

- 6.21 Several groups suggested that Australia enhance its monitoring of progress in human rights. Many of these suggestions, however, are focused on monitoring human rights more broadly than the dialogues.
- 6.22 The Committee to Protect Vietnamese Workers (CPVW) suggested that DFAT monitor the human rights situations of China and Vietnam directly:
- DFAT should provide appropriate resources to ensure that there are in-country officials for whom human rights monitoring is a key part of their duty statement.<sup>19</sup>
- 6.23 The CPVW added that monitoring should give high priority to providing information on how and whether the Dialogues, plus other rights-related activities, are progressing towards their aims.<sup>20</sup>
- 6.24 The CPVW told the Committee that this monitoring should focus on sources independent from the Vietnamese government:

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17 Australia Tibet Council, *Submission No. 4*, p. 3.

18 Mr P Nguyen, Vietnamese Community in Australia, *Transcript*, 24 February 2012, p. 16.

19 Committee to Protect Vietnamese Workers, *Submission No. 18*, p. 10.

20 Committee to Protect Vietnamese Workers, *Submission No. 18*, p. 10.

The monitoring should aim to rely less on information sources associated with the host-country authorities (ministries and, in the case of Vietnam, bodies under the Communist Party's Fatherland Front, such as the Women's Union) and more on other information sources.<sup>21</sup>

6.25 The CPVW added:

- Officials conducting monitoring should establish lines of communications with reputable NGOs not associated with the authorities. These organisations, such as Amnesty International, Human Rights Watch, etc., can then provide not just their widely-available reports but also, as trust is gained, useful information not in such reports;
- Officials conducting monitoring should talk to ordinary citizens of the countries;
- Officials conducting monitoring should, in particular, talk to a wide range of victims of the denial of rights;
- Officials conducting monitoring should – as part of the above – talk to families of political prisoners, to learn about the situation in jail and to learn their side of the story.<sup>22</sup>

6.26 ACFID suggested a similar set of indicators with which to monitor human rights progress in China and Vietnam:

International NGOs including Human Rights Watch and the International Federation for Human Rights have suggested meaningful and realistic indicators for human rights dialogues that would demonstrate a commitment to achieving human rights outcomes. In summary these include:

- Ratification and implementation of all UN human rights instruments;
- Promotion of civil and political and economic, social and cultural rights at a community, regional and national level;
- Unhindered access by UN human rights and humanitarian agencies and independent monitors;
- Compliance with the UN safeguards guaranteeing the rights of those facing the death penalty as a first step towards abolition of the death penalty.<sup>23</sup>

6.27 ACFID also noted that the Universal Periodic Review (UPR) process of the United Nations Human Rights Council provides a means to monitor human rights progress:

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21 Committee to Protect Vietnamese Workers, *Submission No. 18*, p. 10.

22 Committee to Protect Vietnamese Workers, *Submission No. 18*, p. 10.

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

...we think that you could use the universal periodic review framework, which is precisely figuring out what the major human rights issues are in a country and how they are progressing over time.<sup>24</sup>

- 6.28 The Australian Baha'i Community took a similar view on monitoring to ACFID, telling the Committee that Australia should utilise as many resources as possible to monitor human rights:

Australia should draw on a wide range of sources including first-hand observations from its delegations, reports of UN special rapporteurs and working group delegations, the Universal Periodic Review process of the UN Human Rights Council, NGO reports, media reports, and reports from independent sources within the countries with which the dialogues are held.<sup>25</sup>

- 6.29 The Baha'i Community also suggested that 'NGOs have the potential to play a role in the monitoring' of human rights outcomes.<sup>26</sup>

## Community suggestions for measuring outcomes

- 6.30 A number of groups suggested that Australia measure outcomes by establishing objectives and benchmarks for its human rights dialogues.

- 6.31 The ACTU suggested a greater focus on outcomes, recommending:

...that the dialogues be restructured in such a way as to improve accountability and to ensure that they engender real value, with measurable indicators of success.<sup>27</sup>

- 6.32 ACFID recommended the development of objectives and benchmarks, suggesting:

...the development of aims and strategies to achieve desired objectives and measurable benchmarks for each dialogue session on a case-by-case basis.<sup>28</sup>

- 6.33 The Australian Baha'i Community agreed that benchmarks are required to measure outcomes, stating:

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24 Dr Harris-Rimmer, Australian Council for International Development, *Transcript*, 11 October 2011, p. 2.

25 Australian Baha'i Community, *Submission No. 12*, p. 6.

26 Australian Baha'i Community, *Submission No. 12*, p. 2.

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

28 Australian Council for International Development, *Submission No. 14*, p. 6.

...the human rights dialogue process will be most effective if clear benchmarks are established against which progress can be measured and evaluated. The benchmarks used should set out practical objectives and go into specific detail, rather than being limited to theoretical or general statements of intent.<sup>29</sup>

- 6.34 The Council also recommended that objectives and benchmarks be developed so that outcomes can be effectively measured:

The dialogue should be results-oriented and include concrete, time-bound objectives. Each dialogue should have focused objectives and clear detailed benchmarks against which objectives and progress can be measured and based on international human rights standards.<sup>30</sup>

- 6.35 The Vietnam Committee on Human Rights held the view that any benchmarks 'should be achieved within a determined time-frame wherever possible.'<sup>31</sup>

- 6.36 Ms Dao and CLA also recommended that benchmarks be established.<sup>32</sup>

- 6.37 The VCHR noted that the European Union (EU) 'has issued its own set of benchmarks' and guidelines for its human rights dialogues.<sup>33</sup>

- 6.38 ACFID suggested that Australian officials should take advantage of the benchmarking that has been done by the EU, stating:

ACFID notes that on some issues of concern, particularly in regard to identifying unambiguous objectives, the EU has made some initial progress. As a means to learn lessons from European associates, Australian agencies should play an active role in requesting information from EU colleagues on human rights matters and dialogue outcomes regarding China, Iran and Viet Nam.<sup>34</sup>

- 6.39 The VCHR also recommended that Australia draw objectives from the EU benchmarks:

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29 Australian Baha'i Community, *Submission No. 12*, p. 6.

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

31 Vietnam Committee on Human Rights, *Submission No. 19*, p. 4.

32 Ms Dao, *Submission No. 2*, p. 9; Civil Liberties Australia, *Submission No. 1*, p. 2.

33 Vietnam Committee on Human Rights, *Submission No. 19*, p. 4. For a list of the EU benchmarks, see Joint Standing Committee on Foreign Affairs, Defence and Trade, *Australia's Human Rights Dialogue Process*, September 2005, Commonwealth of Australia, Appendix F.

34 Australian Council for International Development, *Submission No. 14*, p. 10.

A set of specific objectives (even minimal ones) should be set for each human rights dialogue, based on these benchmarks for measuring progress.<sup>35</sup>

- 6.40 The VCHR further said that ‘NGOs and MPs should receive the list of specific objectives and benchmarks.’<sup>36</sup>
- 6.41 The VCA stressed that any outcomes identified must be made public, recommending that:
- If evaluation and assessment fail to identify any tangible positive outcomes by the Vietnamese government then we want the public and the parliament to know about and assess that evaluation.<sup>37</sup>
- 6.42 The Democratic Party of Vietnam suggested that the involvement of Vietnamese and Chinese NGOs could ‘serve as a benchmark that measures progress in the improvement of human rights.’<sup>38</sup>
- 6.43 In response to these proposals, DFAT commented that it had ‘trawled through the various submissions you [the Committee] have received and I do not think we have found any specific benchmarks that might be of help.’<sup>39</sup>

## Broader human rights principles

- 6.44 CLA saw Australia’s international activities more generally as lacking any kind of human rights guiding principles or framework, stating:
- We would argue that, before you can have a human rights dialogue with China and Vietnam, you have to know pretty well what your human rights positions are, what the core principles in Australia are and what the core principles that we project and wish to talk to other nations about. In the absence of this, it is very difficult to have a human rights dialogue with China and Vietnam that has any meaning whatsoever. It is even very hard for the department and its secretary to put measurable objectives in place in [its] annual report...<sup>40</sup>

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35 Vietnam Committee on Human Rights, *Submission No. 19*, p. 4.

36 Vietnam Committee on Human Rights, *Submission No. 19*, p. 4.

37 Mr P Nguyen, Vietnamese Community in Australia, *Transcript*, 24 February 2012, p. 16.

38 Democratic Party of Vietnam, *Submission No. 24*, p. 4.

39 Ms Bird, Department of Foreign Affairs and Trade, *Transcript*, 1 November 2011, p. 4.

40 Mr Rowlings, Civil Liberties Australia, *Transcript*, 7 February 2012, p. 1.

- 6.45 CLA noted that, in the absence of ‘proper objective measures’ of success, any evaluation of outcomes is essentially impossible.<sup>41</sup> They said that the first step towards developing these measures is the formal articulation of the human rights values Australia seeks to project internationally:

...our argument would be that this development of a human rights framework, which has been done nationally but is nowhere near in place yet, needs to be done with an overlay of our international wishes and desires and where we want to go with human rights internationally – where we want to project ourselves, where we want to put emphasis and where we do not. We would suggest that it springboards off any Australian framework but has a distinct element of itself which is international. We would suggest very strongly that it starts with a focus on the Pacific region, because that is our area of the world, and we do it for that region only, as a test.<sup>42</sup>

- 6.46 The CLA proposed the development of a white paper on human rights:

...our proposal is that there is a white paper/green paper ... development and that it come out of this committee. This committee could drive it or it could be driven from elsewhere – it could be driven by the new human rights committee in general.<sup>43</sup>

## **Committee comment**

- 6.47 The overall perception from NGOs, civil society organisations, ethnic community groups and individuals is that more needs to be done to monitor and evaluate the outcomes of Australia’s human rights dialogues. The general view of these groups is that this would best be achieved through the development of aims, objectives and benchmarks for Australia’s human rights dialogues.

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41 Mr Rowlings, Civil Liberties Australia, *Transcript*, 7 February 2012, p. 3.

42 Mr Rowlings, Civil Liberties Australia, *Transcript*, 7 February 2012, p. 4.

43 Mr Rowlings, Civil Liberties Australia, *Transcript*, 7 February 2012, p. 1.

- 6.48 Adequate performance information on the effectiveness of the human rights dialogues will enable DFAT 'to provide sound advice on the appropriateness, success, shortcomings and/or future directions' of the program.<sup>44</sup>
- 6.49 The Committee notes the work undertaken by the Australian Government to develop Australia's Human Rights Framework. The Committee also notes that an independent National Human Rights Consultation Committee was appointed to conduct the National Human Rights Consultation that fed into the development of the Framework.
- 6.50 The Committee believes that this process was worthwhile and therefore recommends that the Australian Government establish a panel of experts to develop a set of principles, objectives and benchmarks for each of Australia's human rights dialogues. The panel should conduct an overall review of the effectiveness of the dialogues every three years.
- 6.51 The panel should consult extensively with human rights groups, ethnic community groups, NGOs and other interested groups and individuals within Australia's human rights caucus.
- 6.52 The report should be made available for comment from NGOs and the wider community before it is finalised. The report should be made public once it is complete.

### **Recommendation 9**

**The Committee recommends that the Department of Foreign Affairs and Trade convene a panel of experts to produce a report that outlines a clear set of principles, aims and benchmarks for each of Australia's human rights dialogues. The panel should conduct an overall review of the effectiveness of the dialogues every three years.**

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44 Australian National Audit Office, *Audit Report No.5 2011-12, Development and Implementation of Key Performance Indicators to Support the Outcomes and Programs Framework*, September 2011, p. 13.





## Adopting a bilateral human rights dialogue with other countries

### Sri Lanka

- 7.1 The Committee received a substantial amount of evidence recommending that Australia adopt a human rights dialogue with Sri Lanka.
- 7.2 The Catholic Justice and Peace Commission recommended adopting a bilateral human rights dialogue between Australia and Sri Lanka.<sup>1</sup>
- 7.3 Likewise, the Australian Tamil Congress posed the question:  
How best can Australia persuade Sri Lanka to follow a path of respecting human rights? The answer, we believe, is to take a broad approach through the similar dialogue mechanism that it adopts with China, Vietnam and others.<sup>2</sup>
- 7.4 Sydney PEN Centre and Civil Liberties Australia also supported this recommendation.<sup>3</sup>
- 7.5 DFAT told the Committee that when it comes to additional human rights dialogues:  
That is under consideration. We do take very seriously those issues and we are very much engaged on them.<sup>4</sup>

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1 Catholic Justice and Peace Commission of the Archdiocese of Brisbane, *Submission No. 11*, p. 1.

2 Australian Tamil Congress, *Submission No. 7*, p. 7.

3 Mr Beckett, Sydney PEN Centre, *Transcript*, 1 February 2012, p. 10; Dr Klugman, Civil Liberties Australia, *Transcript*, 7 February 2012, p. 7.

- 7.6 On whether or not to undertake a dialogue with Sri Lanka, DFAT said that it was a 'matter of judgement':

I do not think there is any a priori reason why you would not or you would. It is a judgment call at the end of the day. Our minister's views would be very relevant on it.<sup>5</sup>

- 7.7 However, DFAT noted that engaging with Sri Lanka on human rights is different to engaging China and Vietnam. The Department argued that, due partly to the nature of Sri Lanka's political system, 'it is a very straightforward matter for us to engage on human rights issues.'<sup>6</sup>

## Other countries

- 7.8 Several submitters suggested that Australia seek to adopt a bilateral human rights dialogue with other countries including Malaysia, Cambodia, Burma, Fiji, Papua New Guinea and Indonesia.

- 7.9 The Australian Council for International Development suggested that Australia adopt a dialogue with Malaysia, noting that:

At a minimum, such bilateral discussions can serve as a high-level arena in which the Australian Government and the Australian Parliament are able to raise questions about the adherence to the human rights protections written into the optional guidelines for the agreement on transfers and resettlement of asylum seekers and refugees.<sup>7</sup>

- 7.10 Furthermore, ACFID put forward its view that Malaysia's lack of a human rights framework was concerning:

We picked Malaysia particularly because we were concerned about the debate at the time around offshore processing and Malaysia not having a human rights framework.<sup>8</sup>

- 7.11 ACFID also put Cambodia forward as a potential dialogue partner, arguing that the advances made in human rights must be protected:

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4 Ms Bird, DFAT, *Transcript*, 1 November 2011, p. 8.

5 Ms Stokes, DFAT, *Transcript*, 5 March 2012, p. 19.

6 Ms Stokes, DFAT, *Transcript*, 5 March 2012, p. 19.

7 Australian Council for International Development, *Submission No. 14*, p. 3.

8 Dr Harris-Rimmer, Australian Council for International Development, *Transcript*, 11 October 2011, p. 7.

As Cambodia continues to move past its violent and authoritarian history of the late 1970s, it remains of critical importance to insulate and protect fragile conceptions of human rights. With recent attention to areas of concern, including border skirmishes with Thailand, the forced eviction of residents living around the Boeung Kak Lake and a growing disinterest in pursuing vigorously suspects being tried through the Extraordinary Chambers of the Courts of Cambodia, it is important that Australia have an established avenue for frank exchange about human rights in the domestic context of both countries.<sup>9</sup>

7.12 ACFID expanded on this idea at a public hearing, expressing its concerns about the deterioration of the situation of civil society actors in Cambodia:

...the environment for civil society is getting much tougher at the moment. That is why we see it as a priority. We are seeing some really difficult things play out in terms of tax reform in Cambodia, which means that NGOs are being deregistered and are having a very difficult time. That is why.<sup>10</sup>

7.13 However, ACFID also added a note of caution about establishing new dialogues:

Whether this dialogue mechanism should be adopted with other countries, our view is not unless you properly resource these ones first. We have had 11 years or longer of not really knowing what progress they are making. We think it would probably be unwise to just replicate the process with other countries until you have sorted that out.<sup>11</sup>

7.14 The Committee to Protect Vietnamese Workers recommended that Australia consider establishing a human rights dialogue with Burma, stating that 'the regime's human rights abuses are serious and fairly well known.'<sup>12</sup>

7.15 Sydney PEN Centre told the Committee that, due to increasing restrictions on the press, it would be a good idea to conduct a human rights dialogue with Fiji.<sup>13</sup>

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9 Australian Council for International Development, *Submission No. 14*, p. 3.

10 Dr Harris-Rimmer, Australian Council for International Development, *Transcript*, 11 October 2011, p. 7.

11 Dr Harris-Rimmer, Australian Council for International Development, *Transcript*, 11 October 2011, p. 2.

12 Committee to Protect Vietnamese Workers, *Submission No. 18*, p. 10.

13 Mr Beckett, Sydney PEN Centre, *Transcript*, 1 February 2012, p. 10.

- 7.16 Civil Liberties Australia saw Papua New Guinea and Indonesia as candidates for new human rights dialogues, largely due to their geographical proximity to Australia, and the importance they hold to Australia as a result.<sup>14</sup>
- 7.17 The Catholic Archdiocese of Brisbane agreed that Indonesia would be a good candidate for a bilateral dialogue, calling for:
- ...some consideration for extending dialogue to Indonesia around human rights issues in that country and particularly in the Papuan provinces.<sup>15</sup>

## **Committee comment**

- 7.18 As noted in Chapter 2, the Committee has recommended that the Australian Government consider re-establishing its bilateral human rights dialogue with Iran.
- 7.19 As part of its deliberations for the inquiry, the Committee heard from witnesses that suggested establishing dialogues with Indonesia, Malaysia, Burma, Papua New Guinea, Cambodia and Fiji.
- 7.20 The Committee believes that it is important to continually monitor and evaluate the human rights situation of the countries in Australia's region.
- 7.21 Any evaluation of these countries' human rights practices should cover internationally recognised individual, civil, political, and worker rights, as set forth in the Universal Declaration of Human Rights.
- 7.22 The ongoing human rights reviews should also include an assessment of whether Australia should adopt a human rights dialogue with these countries.
- 7.23 As noted in Chapter two, the Committee believes that Australia's bilateral human rights dialogue process is worthwhile and should continue as part of a multifaceted human rights approach.
- 7.24 The Committee notes that Australia has taken steps to urge the Sri Lankan Government to address the alleged human rights abuses committed by both sides during the course of the armed conflict directly with the Government and in multilateral fora such as the UN.

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

15 Mr Arndt, Catholic Justice and Peace Commission of the Archdiocese of Brisbane, *Transcript*, 5 March 2012, p. 1.

- 7.25 Establishing a human rights dialogue between Australia and Sri Lanka would enhance Australia's multifaceted human rights approach.
- 7.26 The Committee has therefore formed the view that the Australian Government should make representations to the Sri Lankan Government, both directly and indirectly, to open a formal human rights dialogue which consists of a Human Rights Technical Cooperation program.
- 7.27 Establishing a human rights technical cooperation program in conjunction with the dialogue would also enable Australia to provide its expertise in the HRTC programs three key priority areas of legal reform, women and children's rights and ethnic minority rights. This is a way for Australia to meaningfully contribute towards the reconciliation process.

### **Recommendation 10**

**The Committee recommends that the Australian Government should make representations to the Sri Lankan Government to open a formal human rights dialogue. A human rights technical cooperation program should also be established in conjunction with the dialogue.**



## Complementary human rights advocacy

- 8.1 Several organisations and individuals that provided evidence for this inquiry called for Australia to take a multifaceted approach to its human rights advocacy both bilaterally and multilaterally, in private and in public.
- 8.2 The Australia Tibet Council (the Council) advised that it supports ‘the continuation of the human rights dialogue as one component of a multifaceted approach by the Australian government to promoting human rights.’<sup>1</sup>
- 8.3 The Council added:
- The dialogue process may be a part of these strategies, but must not be an obstacle to pursuing other courses of action.<sup>2</sup>
- 8.4 The Australian Council for International Development (ACFID) stated that it was ‘very keen to see... that human rights are fully integrated into Australian foreign policy so that every avenue is used to promote and protect human rights.’<sup>3</sup>
- 8.5 The Australian Baha’i Community advised that it was important to see the dialogues as part of a suite of tools, stating:
- Broadly, the Australian Baha’i community supports the human rights dialogue process as a tool to be used alongside others in promoting the protection of human rights around the world. We

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1 Ms Kyinzom, Australia Tibet Council, *Transcript*, 5 September 2011, p. 2.

2 Ms Kyinzom, Australia Tibet Council, *Transcript*, 5 September 2011, p. 2.

3 Ms Scrine, Australian Council for International Development, *Transcript*, 11 October 2011, p. 8.

believe that it is important to view the dialogues as part of a suite of tools available to the government.<sup>4</sup>

- 8.6 The Australian Human Rights Commission (the Commission) held a similar view to the Baha'i Community, stating:

I think that there is a wide variety of tools at the disposal of the Australian government and community to pursue human rights in China and Vietnam through bilateral, regional, multilateral fora. There are all sorts of ways of making representations, and I think we should continue to pursue a wide menu of options.<sup>5</sup>

- 8.7 The Unified Vietnamese Buddhist Congregation of Australia and New Zealand (UVBC) suggested that the Department of Foreign Affairs and Trade (DFAT) work through other mechanisms:

...including of course the UN and the UN Human Rights Council – even cooperating with other countries that have a similar level of concern to help the situation – rather than by ourselves and by putting dialogue as an end in itself.<sup>6</sup>

- 8.8 Civil Liberties Australia (CLA) supported 'the option of pursuing UN resolutions on human rights or the use of other mechanisms.'<sup>7</sup>

- 8.9 The Australian Council of Trade Unions (ACTU) called for alternative ways to promote human rights in our region, stating:

We continue to emphasise the importance of the Australian Government promoting respect for human rights through all available avenues, including multilateral human rights processes.<sup>8</sup>

- 8.10 The Vietnam Committee on Human Rights (VCHR) also held the view that the dialogues form part of an overall strategy, stating:

The Human Rights Dialogue can only achieve results if it is part of an overall strategy that includes political pressure and public scrutiny at every level.<sup>9</sup>

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4 Dr Mobini, Australian Baha'i Community, *Transcript*, 20 September 2011, p. 2.

5 Mr Robinson, Australian Human Rights Commission, *Transcript*, 1 February 2012, p. 4.

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

7 Civil Liberties Australia, *Submission no. 1*, p. 2.

8 Australian Council of Trade Unions, *Submission No. 13*, p. 2.

9 Vietnam Committee on Human Rights, *Submission no. 19*, p. 5.



- 8.11 The NSW Falun Dafa Association (FDA) commented that ‘alternative human rights mechanisms may take many forms from formal to informal, from multi-lateral to bilateral.’<sup>10</sup>
- 8.12 When questioned whether the Australian Government should enhance the dialogues or choose alternative measures, Ms Dao advised that they could be done concurrently.<sup>11</sup>
- 8.13 DFAT agreed with the view that Australia should take a multifaceted approach to its human rights advocacy, stating that ‘it is important for us to emphasise that Australia pursues human rights issues in a wide range of ways’.<sup>12</sup>
- 8.14 DFAT added:
- The Government employs a wide range of tools to promote human rights. The selection of tools in each case will depend on the circumstances in the country concerned as well as the judgements about which tool, or combination of tools, is likely to have the greatest impact.<sup>13</sup>

## Multilateral human rights advocacy

### The United Nations Human Rights Council

- 8.15 In 2006 the UN established the Human Rights Council (UNHRC). The UNHRC is responsible for ‘strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and make recommendations on them.’<sup>14</sup>
- 8.16 In addition, the UNHRC ‘has the ability to discuss all thematic human rights issues and situations that require its attention throughout the year.’<sup>15</sup>

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10 NSW Falun Dafa Association, *Submission no. 16*, p. 13.

11 Ms Dao, *Transcript*, 24 February 2012, p. 44.

12 Ms Stokes, Department of Foreign Affairs and Trade, *Transcript*, 5 March 2012, p. 11.

13 Department of Foreign Affairs and Trade, *Submission No. 20*, p. 22.

14 United Nations Human Rights Council, ‘Background information on the Human Rights Council’, viewed 17 May 2012,  
<<http://www.ohchr.org/EN/HRBodies/HRC/Pages/AboutCouncil.aspx>>

15 United Nations Human Rights Council, ‘Background information on the Human Rights Council’, viewed 17 May 2012,  
<<http://www.ohchr.org/EN/HRBodies/HRC/Pages/AboutCouncil.aspx>>

- 8.17 47 United Nations Member States, which are elected by the UN General Assembly, are members of the UNHRC. Australia is currently not a member.<sup>16</sup>
- 8.18 A number of organisations were supportive of pursuing human rights advocacy through the United Nations and the UNHRC.
- 8.19 The UVBC called for DFAT to work through other human rights mechanisms such as the UN Human Rights Council.<sup>17</sup>
- 8.20 The Baha'i Community held the view that multilateral mechanisms, such as the UNHRC, could be more effective in the protection of human rights:
- Those tools also include multilateral mechanisms, like the UN human rights instruments, the General Assembly, the Third Committee, the Human Rights Council and special procedures. One would obviously never want a situation to arise where participation in a dialogue precluded the government from pursuing those other avenues which are at least, if not more, effective in the protection of human rights.<sup>18</sup>
- 8.21 ACFID, in its submission as part of its inquiry into *Australia's Human Rights Dialogue Process*, stated:
- ...bilateral dialogues should be integrated into multilateral processes, such as the United Nations Commission [now the UNHRC] on Human Rights, to more effectively promote human rights.<sup>19</sup>
- 8.22 The VCHR highlighted the European Parliament's view of applying diplomatic and political pressure at every level:
- As the European Parliament has said: 'it is essential for dialogue or consultation to be backed up by appropriate diplomatic and political pressure at every level, extending to United Nations bodies and its Human Rights Council in particular'.<sup>20</sup>

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16 United Nations Human Rights Council, 'Current Membership of the Human Rights Council', viewed 17 May 2012, <<http://www.ohchr.org/EN/HRBodies/HRC/Pages/CurrentMembers.aspx>>

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

18 Dr Mobini, Australian Baha'i Community, *Transcript*, 20 September 2011, p. 2.

19 Australian Council for International Development, *Submission no. 14*, p. 6.

20 Vietnam Committee on Human Rights, *Submission No. 19*, p. 5.

- 8.23 More specifically, the FDA expressed concerns that the UNHRC was ‘not faring much better in terms of bringing China to account for its human rights abuses.’<sup>21</sup>
- 8.24 The CLA, while supportive in pursuing UN resolutions on human rights, had some reservations about the effectiveness of the UNHRC.<sup>22</sup>
- 8.25 DFAT advised the Committee that participation in the UN is an important component of Australia’s human rights advocacy, stating:
- Another important component of Australia’s human rights advocacy is active participation in multilateral fora at which human rights are regularly discussed, including the UN General Assembly Third Committee and the UN Human Rights Council.<sup>23</sup>
- 8.26 DFAT held the view that the UNHRC was quite robust in how it deals with human rights issues.<sup>24</sup>

## The Universal Periodic Review

- 8.27 The Universal Periodic Review (UPR) is a process during which all UN member states undergo a peer review of their human rights situations every four years. The UN describes the UPR as:
- ...a State-driven process, under the auspices of the Human Rights Council, which provides the opportunity for each State to declare what actions they have taken to improve the human rights situations in their countries and to fulfil their human rights obligations. As one of the main features of the Council, the UPR is designed to ensure equal treatment for every country when their human rights situations are assessed.<sup>25</sup>
- 8.28 ACFID suggested that more emphasis, more resources and more strategy be focused around the UPR process.<sup>26</sup>

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21 NSW Falun Dafa Association, *Submission no. 16*, p. 12.

22 Civil Liberties Australia, *Submission No. 1*, p. 2; Mr Rowlings, Civil Liberties Australia, *Transcript*, 7 February 2012, p. 5.

23 Department of Foreign Affairs and Trade, *Submission No. 20*, p. 22.

24 Ms Stokes, Department of Foreign Affairs and Trade, *Transcript*, 5 March 2012, p. 11.

25 United Nations Human Rights Council, ‘Universal Periodic Review’, viewed 11 May 2012, <<http://www.ohchr.org/en/hrbodies/upr/pages/uprmain.aspx>>

26 Dr Harris-Rimmer, Australian Council for International Development, *Transcript*, 11 October 2011, p. 7.

- 8.29 Sydney PEN viewed the UPR as a new paradigm for human rights reporting, suggesting that the UPR process be used as an avenue for greater bilateral engagement with China and Vietnam:

I know that Vietnam is up before the UPR process this year and China is in 2013. They are processes that are engaged with in a meaningful way by both of those [countries]. That is to say that they provide submissions to the Human Rights Council, that they make themselves available for questioning as part of that process and that the questioning in fact often comes from NGOs and other interested states who put questions to the members of the council who ask the questions of China and of Vietnam. Then a report is produced as a result of that. [...] I wonder whether, given that the UPR process happens every four years, there are prospects for the Australian government to engage bilaterally with those countries to increase the level of reporting from both sides – from China about Australia and from Australia about China – in between those periodic reviews.<sup>27</sup>

- 8.30 However, the VCHR was less optimistic about the efficacy of the UPR, noting that Vietnam had rejected any recommendations made when it came before the UPR:

Moreover, at the UPR, instead of engaging in inter-active dialogue with UN member states, the Vietnamese delegation dismissed their concerns on violations of freedom of the press, religion, expression and association as ‘unfounded reports and allegations of ill will about democracy and human rights in Vietnam’. It also rejected over 40 concrete proposals for advancing human rights, including Australia’s important recommendations to strengthen press freedom protections and bring the Penal Code and the Criminal Procedures Code into line with its international treaty commitments.<sup>28</sup>

- 8.31 DFAT highlighted Australia’s involvement in the UPR process, stating:

The Government takes part in the UN HRC’s UPR mechanism and participates in the vast majority of the UPRs of UN member states. In the last three sessions of the UPR, Australia delivered statements on 40 out of 47 countries under review.<sup>29</sup>

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27 Mr Beckett, Sydney PEN Centre, *Transcript*, 1 February 2012, p. 11.

28 Vietnam Committee on Human Rights, *Submission No. 19*, p. 1.

29 Department of Foreign Affairs and Trade, *Submission No. 20*, p. 22.

8.32 DFAT also highlighted Australia's involvement in relation to China and Vietnam's assessment under the UPR:

In February 2009 we delivered a statement on the occasion of the UPR of China, making recommendations on abolition of the death penalty, protection of ethnic minorities' religious, political, civic and socio-economic rights, press freedom and the treatment of human rights defenders. In May 2009, we delivered a statement at Vietnam's UPR, making recommendations on press freedom, Vietnam's accession to the Convention Against Torture, and the need for consistency between Vietnam's criminal code and its international human rights treaty commitments.<sup>30</sup>

8.33 DFAT noted that Australia is active in the UPR in relation to a large number of countries, and does not seek to limit its activity to areas of greater importance to Australia:

For Australia, where possible, we try to make comments on nearly every country, where we have something useful to say. You have a very short time frame for speaking. It is something like three minutes or four minutes, so you cannot cover the waterfront, so you have to be selective about the key human rights concerns you want to raise. We take those opportunities very seriously, and every country takes it seriously. What is good about it is that developed and developing countries are treated equally.<sup>31</sup>

8.34 DFAT viewed the UPR process as a very constructive means of multilateral engagement on human rights, stating:

The Universal Periodic Review process has turned out to be, for us, quite a constructive way of engaging with all countries in the world on human rights. Once every four years, every country has its turn at the Universal Periodic Review. The country makes the presentation but then it is subject to questioning and proposals and then recommendations are made. The country accepts some of those and does not accept some. That is its decision. There is a report six months or so after that. Then, four years later, the country has its turn again, and in a sense its performance is measured again through that process. If it said it would do something, the question is: has it done it? It provides a good vehicle for testing that – although I should say that we are just

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30 Department of Foreign Affairs and Trade, *Submission No. 20*, p. 22.

31 Ms Stokes, DFAT, *Transcript*, 5 March 2012, p. 11.

about to begin that process because we have only just finished the four-year cycle.<sup>32</sup>

## Other multilateral human rights advocacy

- 8.35 A number of submitters suggested additional avenues through which to multilateral human rights discussions could take place including the UN Development Programme (UNDP), Commonwealth Heads of Government Meeting (CHOGM), G20, International Labour Organisations, multilateral trade agreements, and the World Bank.
- 8.36 CLA suggested that the UNDP have human rights integrated into its work.<sup>33</sup>
- 8.37 ACFID suggested using CHOGM or the G20 to raise human rights issues:
- They could use CHOGM to make an issue about here or there, or they could use the G20 or they could make some strategic connections around human rights issues that would then make the dialogue more fruitful.<sup>34</sup>
- 8.38 The ACTU recommended:
- ...promoting respect for human rights through all available avenues, including multilateral human rights processes (including through the International Labour Organisation [ILO]), bilateral and multilateral trade agreements, and through its international aid program.<sup>35</sup>
- 8.39 The Committee to Protect Vietnamese Workers (CPVW) also recommended that Australia work with international organisations like the ILO to help improve workers rights in Vietnam, noting:
- As part of its involvement in the ILO's Better Work Vietnam program, Australia should push for the universal right of workers to organise and strike without being arrested or sacked.<sup>36</sup>
- 8.40 CLA suggested that human rights elements be incorporated into the operations of the World Bank.<sup>37</sup>

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32 Ms Stokes, DFAT, *Transcript*, 5 March 2012, p. 11.

33 Mr Rowlings, Civil Liberties Australia, *Transcript*, 7 February 2012, p. 5.

34 Dr Harris-Rimmer, ACFID, *Transcript*, 11 October 2011, p. 3.

35 Australian Council of Trade Unions, *Submission No. 13*, p. 2.

36 Committee to Protect Vietnamese Workers, *Submission No. 18*, p. 7.

37 Mr Rowlings, Civil Liberties Australia, *Transcript*, 7 February 2012, p. 5.

- 8.41 Mr Luke Donnellan MP advised that Australia must exercise caution when pushing human rights issues in multilateral arenas citing Vietnam's accession to the World Trade Organisation (WTO):

There was an enormous push in the USA, from the Vietnamese community there, to say they [Vietnam] should not be, but if you start denying countries that then in many ways you are denying the people within that country the right to trade, the right to improve their lot. It is fine in theory to deny a country a relationship with the WTO but realistically the impact it will have is probably on the worst-off.<sup>38</sup>

- 8.42 ACFID pointed out that the Association of Southeast Asian Nations (ASEAN) established an Intergovernmental Commission on Human Rights in 2009 to increase awareness and discussions of human rights in the region.<sup>39</sup> ACFID added:

As Australia's ASEAN neighbours continue to move to a more integrated economic bloc, it remains a critical diplomatic undertaking to work bilaterally to discuss the human rights situation in our region and its realisation by the most vulnerable.<sup>40</sup>

- 8.43 DFAT informed the Committee that it is engaging more with ASEAN on human rights issues, stating:

It is worth noting that we are now also engaging more with ASEAN as a body on human rights issues as well as bilaterally. They have set up just quite recently a new body – the ASEAN Intergovernmental Commission on Human Rights. This flows from the fact that they have adopted a charter which has changed the institutional character of ASEAN. We think that is a very significant and welcome development for the region and we are looking at ways at which we can work with and support that body, including linking up the Australian Human Rights Commission with this new body to help it develop its pathway forward.<sup>41</sup>

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38 Mr Donnellan MP, *Transcript*, 24 February 2012, p. 32.

39 Australian Council for International Development, *Submission no. 14*, p. 3.

40 Australian Council for International Development, *Submission no. 14*, p. 3.

41 Ms Bird, DFAT, *Transcript*, 1 November 2011, p. 6.

## Bilateral human rights advocacy

### Withholding foreign aid

- 8.44 Several submitters suggested Australia consider withholding foreign aid to Vietnam until the human rights situation improves.
- 8.45 The Vietnamese Community in Australia (VCA) said that it wants ‘serious consideration to be given to coupling Australian overseas aid with progress on human rights reforms’.<sup>42</sup>
- 8.46 Bloc 8406 took a similar view to the VCA, stating:
- ...overseas aid items should always be tied to the human rights progress, and we propose that there is absolutely no aid to be given without human rights conditions attached.<sup>43</sup>
- 8.47 Mr Scott Johnson, who provided a submission in a private capacity, specifically recommended withholding foreign aid until Montagnard prisoners in Vietnam are released, stating:
- The Australian Government should consider linking foreign aid or take other concrete measures in order to pressure Vietnam to release the Montagnard prisoners.<sup>44</sup>
- 8.48 Mr Nguyen Van Dai made a similar suggestion, saying that foreign aid to Vietnam should be linked to the immediate release of 300 political prisoners.<sup>45</sup>
- 8.49 When asked about its views on the withholding of foreign aid DFAT responded that there is no international consensus on how effective sanctions are:
- Generally, many African countries think that sanctions are not helpful. It is a contested area. We have seen some progress with Burma. Have sanctions by Western countries helped – and the sorts of sanctions we are talking about are targeted, usually travel sanctions and financial sanctions against individuals? When you look at how we explain the positive changes there, it is hard to

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42 Mr P. Nguyen, Vietnamese Community in Australia, *Transcript*, 24 February 2012, p. 16.

43 Mr D. Nguyen, Bloc 8406, *Transcript*, 24 February 2012, p. 23.

44 Mr Johnson, *Submission No. 8*, p. 2.

45 Mr Van Dai, *Submission No. 5*, p. 2.



disentangle things. But, again, I would say that the sanctions on the part of the West have been helpful.<sup>46</sup>

## Committee comment

- 8.50 The Committee notes the concerns of submitters that funding provided through Australia's foreign aid program may go to countries in which human rights abuses take place.
- 8.51 Human rights, justice, civil and political rights are essential in building functioning democracies and for reducing poverty.
- 8.52 The Committee calls on the Australian Government to consider these broader 'rights' issues when allocating funding under Australia's overseas development aid program. The Committee requests that the Australian Government measure the effectiveness of its existing human rights aid programs.

## Supporting national human rights institutions

- 8.53 CLA highlighted that DFAT provided funding and expertise to establish a human rights group in Indonesia.<sup>47</sup> CLA added:
- And in fact the model that was used for support for human rights in Indonesia that worked very well could be something that was trialled in other Pacific countries.<sup>48</sup>
- 8.54 Ms Dao recommended that Australia provide funding for the establishment of a similar human rights institution in Vietnam.<sup>49</sup>
- 8.55 DFAT stated that 'the building of national human rights institutions is a priority and where we can try to help through capacity building through Australia's Commission.'<sup>50</sup>
- 8.56 DFAT added that it supports national human rights institutions in the Asia-Pacific region through Australia's aid program:

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46 Ms Stokes, Department of Foreign Affairs and Trade, *Transcript*, 5 March 2012, p. 26.

47 Mr Rowlings, Civil Liberties Australia, *Transcript*, 7 February 2012, p. 4.

48 Mr Rowlings, Civil Liberties Australia, *Transcript*, 7 February 2012, p. 4.

49 Ms Dao, *Submission No. 2*, pp. 2-3.

50 Ms Stokes, DFAT, *Transcript*, 5 March 2012, p. 25.

Other aspects of the aid program which play a direct role in promoting human rights include its strong support for the strengthening of national human rights institutions in the Asia-Pacific region as well as grassroots human rights initiatives. The \$6.5 million Human Rights Fund supports key human rights institutions, including the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Asia-Pacific Forum of National Human Rights Institutions (APF). It also funds the Human Rights Grants Scheme (HRGS), which in 2010-11 provided \$3.5 million in grants to support human rights projects in 33 countries.<sup>51</sup>

- 8.57 The Commission elaborated on its activity in advocating for and assisting in the establishment of national human rights institutions, both bilaterally and multilaterally, stating:

The commission is a member of the Asia Pacific Forum of National Human Rights Institutions, a wide multilateral network of human rights commissions. Through that forum it participates in exchanges and provides support for the establishment and further development of national human rights institutions in this region and beyond. In addition to that we see the establishment of human rights commissions as an area which we could potentially pursue in our bilateral cooperation programs with other countries, if that is an area that they are open to pursuing.<sup>52</sup>

## **Committee comment**

- 8.58 National human rights institutions are designed to promote and protect human rights at the country level. Their role can include addressing discrimination in all its forms, upholding civil and political rights, and promote and protect economic, social and cultural rights.
- 8.59 Properly constituted national human rights institutions can provide an avenue for engaging civil society and government in a discussion of human rights practices, and help to equip both actors with the resources required to begin achieving practical improvements in human rights. They also give citizens another means to seek redress for human rights abuses.

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51 Department of Foreign Affairs and Trade, *Submission No. 20*, p. 22.

52 Mr Robinson, Australian Human Rights Commission, *Transcript*, 1 February 2012, p. 5.

- 8.60 National human rights institutions also facilitate wider international engagement on human rights through multilateral institutions such as the Asia-Pacific Forum of National Human Rights Institutions. In this way, they can assist in spreading adherence to international human rights instruments and norms, such as the various UN covenants on human rights.
- 8.61 The Committee sees great value in facilitating the establishment and development of national human rights institutions within the Asia-Pacific region.

### **Recommendation 11**

**The Committee recommends that the Australian Government assist interested Asia-Pacific countries in the establishment and development of a National Human Rights Institution within their respective country.**

## **Broader human rights advocacy**

### **Public and private advocacy**

- 8.62 Several submitters raised Australia's public and private diplomatic activity as presenting complementary mechanisms for human rights advocacy. Broadly, these suggestions related to Australia's private bilateral advocacy and its public advocacy.
- 8.63 The International Commission of Jurists said that Australia should not sequester all talk of human rights to the dialogues themselves:
- It is necessary, as Australia seems reasonably to do, both to work in the system and also to maintain the right to speak publicly on human rights matters.<sup>53</sup>
- 8.64 The Vietnamese Community in Australia was supportive of an approach to public human rights advocacy that balanced private and public approaches, noting that it should not rely on quiet diplomacy alone:

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53 Mr Suter, International Commission of Jurists, *Transcript*, 5 September 2011, p. 9.

What I am saying is that we are not insisting that we should pursue a megaphone diplomacy, but neither should Australia follow a whispering diplomacy either. We want to make sure that our view is heard and that our view is respected.<sup>54</sup>

- 8.65 The VCHR suggested that Australia should engage in more public and private advocacy, both bilaterally and multilaterally, when it comes to human rights in Vietnam:

Australia should raise human rights issues at all bilateral meetings... and in multilateral fora. Entertaining a human rights dialogue should not prevent Australia from publicly criticising Vietnam, submitting resolutions and making public statements calling for the release of political prisoners or condemning arbitrary arrests.<sup>55</sup>

- 8.66 The FDA stated that the approach taken in the dialogues with China has not been effective because it mainly engages with officials from the Chinese Ministry of Foreign Affairs, which 'has no mandate to promote greater respect for human rights in China domestically'. Instead, they recommended engaging in advocacy tailored towards practical improvements in human rights:

An alternative mechanism with focused and targeted programming to encourage enhanced Chinese compliance with its commitments to the UN Human Rights Covenants should be implemented.<sup>56</sup>

- 8.67 The FDA thought that Australia's human rights advocacy should engage the highest levels of political leadership in China:

Australia should engage China in a human rights dialogue that includes the highest levels of the Communist Party of China, with consistent private and public comment, to highlight the route to ending gross human rights violations, which clearly includes ending the persecution of Falun Gong.<sup>57</sup>

- 8.68 The Prisoners of Conscience Fund took the view that Australia must engage in human rights advocacy with Vietnam constantly:

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54 Mr Luu, Vietnamese Community in Australia, *Transcript*, 24 February 2012, p. 16.

55 Vietnam Committee on Human Rights, *Submission No. 19*, p. 5.

56 NSW Falun Dafa Association, *Submission No. 16*, p. 4.

57 NSW Falun Dafa Association, *Submission No. 16*, p. 5.

For you to improve the human rights dialogue with Vietnam you have to constantly convey to the Vietnamese authorities that Australia is closely and actively monitoring human rights in Vietnam. You have to keep telling them that – today, tomorrow, you have to tell them every day, every month, every year.<sup>58</sup>

- 8.69 The Sydney PEN Centre recommended an expansion in training and exchange programs with China and Vietnam, noting that in terms of the ‘expansion of Australia’s soft diplomacy’:

One of the approaches that might yield long-term benefits would be an expansion of human rights training, particularly to government officials.<sup>59</sup>

- 8.70 Furthermore, Sydney PEN considered that one way of conducting such soft diplomacy was through an exchange program, where Vietnamese and Australian officials spent time in each others’ countries:

Positions in relevant departments could be exchanged between Australia and China. Where there are issues of misunderstanding of how Australia might, for example, operate its own prisons, there is clear benefit in Chinese officials being able to see how that occurs on the ground and providing them with some degree of comfort about recognition of rights within a correctional facility circumstance.<sup>60</sup>

- 8.71 DFAT told the Committee that Australia is active in raising human rights issues through its public diplomacy. For example, it stated that it actively made representations on the death penalty to countries that continue to use it.<sup>61</sup>

- 8.72 When it comes to conducting Australia’s human rights advocacy publicly, DFAT stated that it is always necessary to make a judgement about whether public advocacy will be helpful, noting:

...perhaps a lot of the advocacy that is undertaken on a daily basis is not visible. In some ways you have to make a judgment call about whether that helps. You were raising individual cases but we are always very wary of going public about that because we do not want to make the situation worse for the individuals

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58 Mr Doan, Prisoners of Conscience Fund, *Transcript*, 24 February 2012, p. 5.

59 Mr Beckett, Sydney PEN Centre, *Transcript*, 1 February 2012, p. 9.

60 Mr Beckett, Sydney PEN Centre, *Transcript*, 1 February 2012, p. 9.

61 Department of Foreign Affairs and Trade, *Submission No. 20*, p. 22.

concerned. Again, it is a judgment that is made based on the circumstances in the country concerned.<sup>62</sup>

- 8.73 As an example, DFAT informed the Committee of the Foreign Minister's public statements about individuals of concern in China:

The former Foreign Minister, the Hon Kevin Rudd MP, publicly raised a number of individual human-rights cases of concern during his speech to the Asia Society in New York on 13 January 2012, including Fang Lizhi, Liu Xiaobo and Ai Weiwei. He also raised Liu Xiaobo's case on ABC Radio's 'PM' program on 11 October 2010 and during an interview at the Hong Kong Jockey Club in Beijing on 3 November 2010.<sup>63</sup>

- 8.74 Furthermore, it noted that DFAT itself is active in raising such cases in public:

Department of Foreign Affairs and Trade Deputy Secretary Heather Smith raised Liu Xiaobo's case during a joint press conference following the 13<sup>th</sup> Australia-China Human Rights Dialogue in Beijing on 20 December 2010.<sup>64</sup>

- 8.75 DFAT also raised the example of its private advocacy following the civil war in Sri Lanka:

For example, on Sri Lanka, I could not count the times that we raise issues with the Sri Lankan government. We do not shout those from the rooftops. For example, the previous participant here was talking about the militarisation of life in Jaffna. We have raised that many times with the Sri Lankan government as part of the reconciliation and what Mr Smith used to call 'winning the peace'. We raise those sorts of issues. They are raised when our ambassador – in that case, a high commissioner – meets ministers and senior officials.<sup>65</sup>

## Other suggestions

- 8.76 A number of individuals and organisations suggested other ways to promote human rights more broadly.

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62 Ms Stokes, Department of Foreign Affairs and Trade, *Transcript*, 5 March 2012, pp. 12-13.

63 Department of Foreign Affairs and Trade, *Submission No. 25?*, p. 1.

64 Department of Foreign Affairs and Trade, *Submission No. 25*, p. 1.

65 Ms Stokes, DFAT, *Transcript*, 5 March 2012, p. 12.

8.77 Ms Dao considered that Australia's human rights advocacy needed to be expanded with an increase in Radio Australia's funding for Vietnam to better facilitate free discussion in Vietnam, recommending that the government:

Expand funding for Radio Australia programming for Vietnam, encouraging free exchange of opinions from Vietnamese listeners, including programs which promote rule-of-law concepts, basic freedoms and human rights concepts, civil and civilised society concepts and development.<sup>66</sup>

8.78 Another tool that was suggested by the CPVW was to focus on free access to the internet:

Help citizens of target countries to freely participate in online and mobile life. For example, fund the translation into relevant languages (Vietnamese, Chinese) of various relevant software.<sup>67</sup>

8.79 The CPVW also noted that Australia could work with other countries in promoting free access to the internet.<sup>68</sup>

8.80 Furthermore, the CPVW also saw a direct role for Australia in providing human rights information through its e-diplomacy, recommending that Australia provide:

...information on universal rights, via means under Australia's control, such as directly with contents on websites (Australia's consular website, or websites associated with various aid and other projects) or indirectly via links from there to other Australian websites.<sup>69</sup>

8.81 Ms Dao quoted an anonymous Vietnamese blogger on the effect that free access to the internet can have:

I would like to thank humanity, especially the inventors of the internet, Bill Gates and Steve Jobs, who gave us email facilities, Google, iPads and iPods. Thanks to your inventions we are no longer locked up in the communist prison of ignorance. We can now surf the net right in front of the nose of the security police. The bamboo curtain, the iron curtain, the walls the communists erected to prevent people to think are now blown to bits by communication technology. When the firewalls used to censor

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66 Ms Dao, *Submission No. 2*, p. 10.

67 Committee to Protect Vietnamese Workers, *Submission No. 18*, p. 11.

68 Committee to Protect Vietnamese Workers, *Submission No. 18*, p. 11.

69 Committee to Protect Vietnamese Workers, *Submission No. 18*, p. 3.

internet access are powerless in the face of our powerful longing for freedom, that is the moment when democracy is born.<sup>70</sup>

- 8.82 Ms Dao also suggested that future funding increases to Vietnam should be matched by funding directed towards improving human rights, recommending that Australia:

Ensure that any funds appropriated or allocated to expand bilateral economic or security relations are met with corresponding funding for new projects that focus on furthering human rights, workers' rights, civil society capacity-building, non-commercial rule-of-law programs in Vietnam or incorporate these values in funding terms and conditions.<sup>71</sup>

- 8.83 Furthermore, Ms Dao told the Committee that any current funding should be directed towards projects designed to make practical improvements to human rights, through the provision of:

Ongoing aid and training programs at grassroots level for Vietnamese workers and women that include rule-of-law training, basic freedoms, human rights and workers rights concepts, civil and civilised society concepts and development. Aid should aim to go to independent unions who truly represent the workers, and not to state-sponsored unions.<sup>72</sup>

- 8.84 Ms Dao also recommended that any part of the aid program directed towards scholarships should be directed towards ethnic and religious minorities:

AusAID's current scholarship program can allocate placements for Vietnamese high school - age students to attend school in Australia; AusAID should aim to select youth from disadvantaged and marginalised groups such as from ethnic minority group areas (Montagnard and Hmong), from minority religious communities...<sup>73</sup>

- 8.85 However, Ms Dao cautioned that the selection of candidates should not be conducted by the Vietnamese government, but rather by religious and charitable organisations.<sup>74</sup>

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70 Ms Dao, *Transcript*, 24 February 2012, p. 40.

71 Ms Dao, *Submission No. 2*, p. 8.

72 Ms Dao, *Submission No. 2*, p. 9.

73 Ms Dao, *Submission No. 2*, p. 9.

74 Ms Dao, *Submission No. 2*, p. 9.



## **Committee comment**

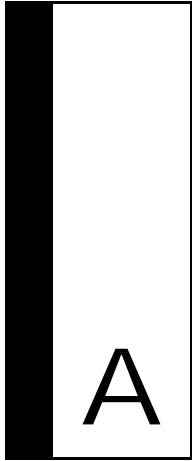
- 8.86 The Committee appreciates the suggestions provided by submitters that Australia take a broader role in its human rights advocacy and notes that DFAT is already actively engaged in this area.

Mr Michael Danby MP

Chair

June 2012

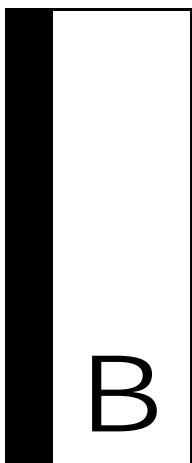




## Appendix A – List of Submissions

1. Civil Liberties Australia
2. Ms Quynh Dao - Author and member of Amnesty International Australia
3. Prisoners Of Conscience Fund Inc
4. Australia Tibet Council
5. Mr Nguyen Van Dai
6. Mr Luke Donnellan MP – Victorian State Member for Narre Warren North
7. Australian Tamil Congres
8. Mr Scott Johnson
9. Vietnamese Community in Australia
10. Bloc 8406 - Freedom and Democracy for Vietnam
11. Catholic Justice & Peace Commission of Brisbane
12. Australian Baha'i Community
13. Australian Council of Trade Unions
14. Australian Council for International Development
15. Sydney PEN Centre
16. Falun Dafa Association of NSW Inc
17. Australian Human Rights Commission
18. Committee to Protect Vietnamese Workers
19. Vietnam Committee on Human Rights and Que Me: Action for Democracy in Vietnam

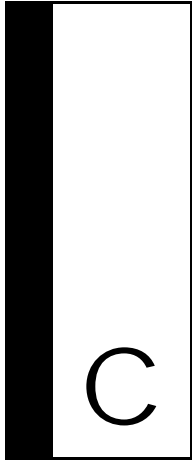
20. DFAT, AusAid, and the Attorney-General's Department
21. Australian Baha'i Community - Supplementary submission
22. Sydney PEN Centre - Supplementary submission
23. Federation for a Democratic China
24. The Democratic Party of Vietnam, Office of the Central Committee
25. Attorney-General's Department - Supplementary Submission
26. Department of Foreign Affairs and Trade - Supplementary Submission



## Appendix B – List of Exhibits

1. Falun Dafa Association NSW  
*Newsletter from the World Organisation to Investigate the Persecution of Falun Gong*
2. Falun Dafa Association NSW  
*Remarks delivered to an International Conference on Religious Freedom in China by David Matas, European Parliament, Brussels, 15 April 2009*
3. Falun Dafa Association NSW  
*Canadian Press article, 'Canadian Exports to China rise strongly, unaffected by human rights emphasis', 8 January 2008*
4. Falun Dafa Association NSW  
*FalunInfo.Net article, 'Nine new Falun Gong deaths recorded in June', 10 July 2011*
5. Falun Dafa Association NSW  
*FalunInfo.Net article, 'After 12 years, Falun Gong's peaceful resistance brings hope amidst repression', 19 July 2011*
6. Civil Liberties Australia  
*Attachment - Review of the Foreign Affairs and Trade Annual Report 2009 - 2010*
7. Mr Scott Johnson  
*Human Rights Watch case study, Montagnard Christians in Vietnam*
8. Mr Scott Johnson  
*Speech, Mr Luke Simpkins MP, House of Representatives, 6 July 2011*

9. Vietnam Committee on Human Rights  
*A Report for the Conference on the Rule of Law for Human Rights in ASEAN Countries*
10. Australian Uyghur Association  
*Uyghur American Association: Two more Uyghurs get life sentences*
11. Australian Uyghur Association  
*World Uyghur Congress: Egregious Human Rights Violations Against the Uyghur People during and in the Aftermath of the July 2009 Protest and Unrest in Urumqi, East Turkestan/China*
12. Ms Quynh Dao  
*EU-Vietnam Human Rights Dialogue Human Rights Watch Recommendations*
13. Ms Quynh Dao  
*Human Rights Watch – Testimony of John Sifton, Asia Advocacy Director, Human Rights Watch “Examining ongoing human rights abuses in Vietnam”*
14. Ms Quynh Dao  
*Statement of Ms Vu Phuong-Anh, a victim of the human trafficking condoned by the Vietnamese government*
15. Ms Quynh Dao  
*Statement of Nguyen Dinh Thang, PhD at the hearing on “examining ongoing human rights abuses in Vietnam”*
16. Civil Liberties Australia  
*Australia Day Letter for 2012*
17. Mr Luke Donnellan MP  
*Report on Visit to Vietnam*



## Appendix C – List of Hearings and Witnesses

**Sydney, Monday, 5 September 2011**

**Australia Tibet Council**

Mr Paul Bourke, Executive Officer

Ms Tsering Kyinzom, Research and Government Relations Manager

**International Commission of Jurists**

Dr Keith Douglas Suter, New South Wales Chair

**Falun Dafa Association of NSW Inc**

Mr John Deller, Andrew, Secretary

Dr Lucy Zhao, President

Mrs Chang Zhi Yue, member

**Canberra, Tuesday, 20 September 2011**

**Australian Baha'i Community**

Dr Natalie Helen Mobini, Director, Office of External Affairs

**Canberra, Tuesday, 11 October 2011**

**Australian Council for International Development**

Dr Susan Gail Harris Rimmer, Manager, Advocacy and Development Practice

Ms Tessa Scrine, Human Rights Advisor

**Canberra, Tuesday, 1 November 2011**

**Department of Foreign Affairs and Trade**

Ms Gillian Elizabeth Bird, Deputy Secretary

Mr Hugh Douglas Borrowman, First Assistant Secretary, South-East Asia Division

Mr Pablo Kang, Assistant Secretary, International Organisations Branch

Mr John Howard Langtry, Assistant Secretary, East Asia Branch

Mr Peter Rowe, First Assistant Secretary, North Asia Division

Dr Heather Smith, Deputy Secretary

**AusAID**

Mr Paul Jeffrey Nichols, Assistant Director General, North and South Asia Branch

**Canberra, Tuesday, 24 November 2011**

**Attorney-General's Department**

Dr John Boersig, Assistant Secretary, Cabinet and Ministerial Branch

Ms Anna Sherburn, Director, Human Rights Policy Branch

**Sydney, Wednesday, 1 February 2012**

**Australian Human Rights Commission**

Mr David Vere Robinson, Director, International Programs

**Sydney PEN**

Mr Simeon Beckett, Secretary

Mr Joel Macfarlane Gibson, Management Committee Member

**Australian Uyghur Association**

Mr Mamtimin Ala, President

Mr Mehmet Celepci

**Unified Vietnamese Buddhist Congregation of Australia and New Zealand**

Most Venerable Quang Ba Thich, Deputy Chairman



## Canberra, Tuesday, 7 February 2012

### **Civil Liberties Australia**

Dr Kristine Kay Klugman, President

Mr William Murray Rowlings, Chief Executive Officer

Mr Benjamin Smith, Member

## Melbourne, Friday, 24 February 2012

### **Prisoners of Conscience Fund**

Mr V Trinh Doan, Active Member

Mr Phung Mai, Director

Ms Uyen Di Tran, Secretary

### **Committee to Protect Vietnamese Workers**

Mr Trung Viet Doan, Secretary

### **Vietnamese Community in Australia**

Mr Quang Luu, AO, Former President and Adviser

Mr Bon Nguyen, President, Victoria Chapter

Mr Phong Nguyen, National President

Reverend Nu-Bao-Son Thich, Representative, Unified Buddhist Church of Vietnam in Australia

### **Bloc 8406 - Freedom and Democracy for Vietnam**

Mrs Thuy Dang, Vice-President, Internal Affairs, Victoria Chapter

Dr Le Kim-Song, Member

Mr Chau Xuan Nguyen, Vice-President, External Affairs, Victoria Chapter

Mr Duy Quang Nguyen, President

Mr Ahn Tuan Pham, Member

Mr Dong Tran, Member

### **Mr Luke Donnellan MP - Private capacity**

### **Ms Quynh Dao - Private capacity**

### **Federation for a Democratic China**

Mr Jin Chin, Chairman – Australia and Deputy Chairman

Mr James Gao, Member

Mr Tian Le Kong, Member

Mr Qing Pan, Secretary

Ms Jia Zhen Qi, Committee Member and Former Deputy President, Independent Chinese PEN

### **Brisbane, Monday, 5 March 2012**

#### **Catholic Justice and Peace Commission of the Archdiocese of Brisbane**

Mr Peter John Arndt, Executive Officer

Reverend Father Pancras Jordan, Member, Sri Lanka Justice Forum

#### **Department of Foreign Affairs and Trade**

Ms Deborah Anne Stokes, First Assistant Secretary, International Organisations and Legal Division

### **Canberra, Tuesday, 13 March 2012**

In camera



## Appendix D – Death penalty statistics – China, Iran and Vietnam

Country	Executions in 2007 <sup>1</sup>	Executions in 2008 <sup>2</sup>	Executions in 2009 <sup>3</sup>	Executions in 2010 <sup>4</sup>	Executions in 2011 <sup>5</sup>
China	470	1718	> 1 <sup>+</sup>	More than 1000	More than 1000
Iran	317	346	388	252	360
Vietnam	25	19	9	> 1 <sup>+</sup>	5

<sup>+</sup> Indicates that at least one execution was carried out, but no specific numbers are available.

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<sup>1</sup> Amnesty International, *Death Sentences and Executions 2007*, p. 6. The figures are the minimum figure calculated by Amnesty International.

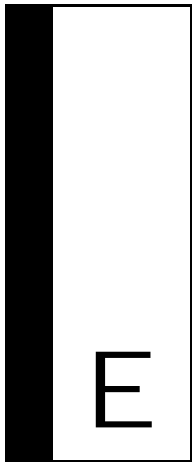
<sup>2</sup> Amnesty International, *Death Sentences and Executions 2008*, pp. 22-3. The figures are the minimum figure calculated by Amnesty International.

<sup>3</sup> Amnesty International, *Death Sentences and Executions 2009*, p. 25. The figures are the minimum figure calculated by Amnesty International.

<sup>4</sup> Amnesty International, *Death Sentences and Executions 2010*, p. 41. The figures are the minimum figure calculated by Amnesty International.

<sup>5</sup> Amnesty International, *Death Sentences and Executions 2011*, p. 55. The figures are the minimum figure calculated by Amnesty International.





## Appendix E – Engagement with non-government organisations since 2009

### **Australia – China Dialogue**

#### NGOs DFAT wrote to in advance of the 14<sup>th</sup> Australia-China Human Rights Dialogue

- Australian Council of Trade Unions
- Alliance for Democracy in Laos
- Amnesty International Australia
- Asia Pacific Forum of National Human Rights Institutions
- Australian Baha’i Community
- Australian Catholic Social Justice Council
- Australian Council for Human Rights Education
- Australia Council for International Development
- Australian Forum of Human Rights Organisations
- Australian Lawyers for Human Rights
- Australian Press Council
- Australian Red Cross
- Australia Tibet Council
- Christian Faith and Freedom

- Civil Liberties Australia
- Falun Dafa
- Federation of Ethnic Communities' Council of Australia
- Human Rights Council of Australia
- Human Rights Law Centre
- International Committee of Jurists Australia
- Khmer Krom Representative of Khmer Krom in Asia Pacific
- Law Council of Australia
- Media, Entertainment and Arts Alliance
- Medecins Sans Frontieres Australia
- National Committee on Human Rights Education Invitation
- National Council of Women Australia
- Oxfam Australia
- Public Interest Advocacy Centre
- Quaker Service Australia
- Sydney PEN
- United Nations Association of Australia
- Uniting Justice Australia
- Viet Tan

### **NGOs DFAT wrote to in advance of the 13<sup>th</sup> Australia-China Human Rights Dialogue**

- Amnesty International Australia\*
- Asia Pacific Forum of National Human Rights Institutions
- Australia Tibet Council\*
- Australian Baha'i Community
- Australian Council for International Development
- Australian Council of Trade Unions
- Australian Press Council

- Falun Dafa Association of New South Wales\*
- Federation of Ethnic Communities Councils of Australia
- Human Rights Council of Australia
- International Commission of Jurists
- Law Council of Australia
- Media, Entertainment & Arts Alliance\*
- National Committee on Human Rights Education
- Sydney PEN\*
- Tears of the Oppressed / Christian Faith & Freedom\*
- United National Association of Australia

\* denotes submission received

Six submissions were received.

## **NGOs DFAT wrote to in advance of the 12<sup>th</sup> Australia-China Human Rights Dialogue**

- Australian Baha'i Community
- Australian Council of Trade Unions\*
- Australia Tibet Council\*
- Amnesty International Australia\*
- Asia-Pacific Forum of National Human Rights Institutions
- Australian Council for International Development\*
- Australian Forum for Human Rights Organisations
- Australian Press Council
- Falun Dafa Association of New South Wales\*
- Federation of Ethnic Communities' Councils of Australia
- Human Rights Council of Australia
- International Commission of Jurists\*
- Law Council of Australia\*
- Media, Entertainment & Arts Alliance\*

- National Centre on Human Rights Education
- National Council of Women Australia\*
- Sydney PEN\*
- Tears of the Oppressed / Christian Faith & Freedom\*
- United Nations Association of Australia\*

\* denotes submission received

12 submissions were received.

## **Australia – Vietnam Dialogue**

### **NGOs DFAT wrote to in advance of the 9<sup>th</sup> Australia-Vietnam Human Rights Dialogue**

- Australian Council of Trade Unions
- Alliance for Democracy in Laos
- Amnesty International Australia
- Asia Pacific Forum of National Human Rights Institutions
- Australian Baha'i Community
- Australian Catholic Social Justice Council
- Australian Council for Human Rights Education
- Australia Council for International Development
- Australian Forum of Human Rights Organisations
- Australian Lawyers for Human Rights
- Australian Press Council
- Australian Red Cross
- Australia Tibet Council
- Christian Faith and Freedom
- Civil Liberties Australia
- Falun Dafa



- Federation of Ethnic Communities' Council of Australia
- Human Rights Council of Australia
- Human Rights Law Centre
- International Committee of Jurists Australia
- Khmer Krom Representative of Khmer Krom in Asia Pacific
- Law Council of Australia
- Media, Entertainment and Arts Alliance
- Medecins Sans Frontieres Australia
- National Committee on Human Rights Education Invitation
- National Council of Women Australia
- Oxfam Australia
- Public Interest Advocacy Centre
- Quaker Service Australia
- Sydney PEN
- United Nations Association of Australia
- Uniting Justice Australia
- Viet Tan

### **NGOs DFAT wrote to in advance of the 8<sup>th</sup> Australia-Vietnam Human Rights Dialogue**

- Amnesty International Australia
- Australian Council for International Development
- Australian Forum of Human Rights Organisations
- Human Rights Council of Australia
- International Commission of Jurists
- United Nations Association of Australia
- Viet Tan

\* denotes submission received

Two submissions were received (including one from Human Rights Watch).

## **NGOs DFAT wrote to in advance of the 7<sup>th</sup> Australia-Vietnam Human Rights Dialogue**

Australian Forum of Human Rights Organisations (requesting the Forum to distribute the notice to interested NGOs)

Four submissions were received from the following NGOs:

- Australian Council for International Development
- Human Rights Council of Australia
- Human Rights Watch
- International Commission of Jurists Australia

## **Australia – Laos Dialogue**

### **NGOs DFAT wrote to in advance of the 3<sup>rd</sup> Australia-Vietnam Human Rights Dialogue**

- Australian Council of Trade Unions
- Alliance for Democracy in Laos
- Amnesty International Australia
- Asia Pacific Forum of National Human Rights Institutions
- Australian Baha'i Community
- Australian Catholic Social Justice Council
- Australian Council for Human Rights Education
- Australia Council for International Development
- Australian Forum of Human Rights Organisations
- Australian Lawyers for Human Rights
- Australian Press Council
- Australian Red Cross
- Australia Tibet Council
- Christian Faith and Freedom
- Civil Liberties Australia

- 
- Falun Dafa
  - Federation of Ethnic Communities' Council of Australia
  - Human Rights Council of Australia
  - Human Rights Law Centre
  - International Committee of Jurists Australia
  - Khmer Krom Representative of Khmer Krom in Asia Pacific
  - Law Council of Australia
  - Media, Entertainment and Arts Alliance
  - Medecins Sans Frontieres Australia
  - National Committee on Human Rights Education Invitation
  - National Council of Women Australia
  - Oxfam Australia
  - Public Interest Advocacy Centre
  - Quaker Service Australia
  - Sydney PEN
  - United Nations Association of Australia
  - Uniting Justice Australia
  - Viet Tan