



Submission No 4

Inquiry into Australia's Human Rights Dialogues with China and Vietnam

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**SUBMISSION TO INQUIRY INTO
AUSTRALIA-CHINA HUMAN RIGHTS
DIALOGUE BY JOINT STANDING
COMMITTEE ON FOREIGN AFFAIRS,
DEFENCE AND TRADE**

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SUMMARY

Australia Tibet Council (ATC) has engaged with the Australia-China Bilateral Dialogue 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.

ATC in principle is not opposed to a dialogue on human rights. This submission however reinforces the issues raised on previous occasions and expresses 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.

The 13th Australia-China Human Rights Dialogue in December 2010 took place against a backdrop of increasing human rights violations in Tibet. ATC has found several areas of ongoing concern in Tibet and wishes to draw particular attention to a few issues in this submission.

ATC's assessment of the dialogue process was strengthened earlier this year by WikiLeaks cables in which Australian officials have admitted that the dialogue has been "punctuated by persistent Chinese denials of human rights abuses".

A number of disturbing themes are evident with China's bilateral dialogues including the one with Australia. The dialogue process is marked by the sheer lack of benchmarks and transparency.

Many dialogue partners have made little secret of the fact that the dialogue is more conducive to securing commercial opportunities than what has been termed confrontation with China on human rights. Legal and other technical assistance programmes are becoming an increasingly large component of the dialogue processes.

ATC supports the continuation of the Australia-China Human Rights Dialogue as one component of a multi-faceted approach. The dialogue should be results-oriented and include concrete, time-bound objectives. Australia's relationship with China in the area of human rights should be made transparent across the board. The current dialogue process should be expanded by establishing parallel dialogues between NGOs, human rights experts, academics and other interest groups from the country.

Australia should initiate, in conjunction with the US and the UK, regular meetings between those countries currently engaged in bilateral human rights dialogues with China.

INTRODUCTION

Australia Tibet Council thanks the Joint Standing Committee on Foreign Affairs, Defence and Trade for undertaking the much-desired review into Australia's human rights dialogue with China.

Australia is noted for being the first country to initiate a bilateral dialogue on human rights with China in 1991. The strategy then involved human rights delegations of politicians, scholars and human rights experts for which there are extensive public reports. The report for the 1991 delegation visit, which included a visit to Lhasa in Tibet and its environs, includes frank description of the climate of fear that was evident to delegation members, the ability of the members to talk with people freely despite the efforts of the Chinese side to 'quarantine' members from ordinary Tibetans, and the robust exchanges that occurred between the Australian delegation and their Chinese counterparts.¹ The 1992 delegation had its scheduled Tibet visit cancelled yet it too was able to provide frank and fearless reporting.²

The exchanges were stalled by Beijing as Australia continued to co-sponsor the annually proposed China Resolution at the United Nations Commission on Human Rights (UNCHR). Relations became increasingly strained when Prime Minister John Howard received the Dalai Lama in 1996.

There are two ways to tell the story of how the Bilateral Human Rights Dialogue was re-established. One version is surface-deep: in March 1997, Prime Minister Howard travelled to China and at that time proposed the establishment of a formal and regular bilateral dialogue on human rights. China accepted the proposal in the following months and Australia changed its UNCHR strategy of co-sponsorship of the China Resolution characterising it as "empty sloganeering."³ The Government advocated a shift to bilateral dialogue as a mechanism through which Australia will be able "to address human rights issues... in a constructive and practical way."⁴

Behind the scenes however, a different story was clear: immediately before the UNCHR session in 1997, Australia entered into a deal with China: Australia would stop co-sponsoring the resolution and in return would enter into a private dialogue with China. After the Commission that year, the other crucial element of the trade-off was revealed: an unscheduled visit to Australia by then Vice-Premier Zhu Rongji, at the head of the most powerful Chinese business delegation yet to come to Australia. At the end of this visit, China made several important concessions on trade. Zhu simultaneously cancelled visits to Ireland, the Netherlands, Austria and Luxembourg because those countries had supported the China resolution that year.

¹ Senator Chris Schacht, (1991), Report of The Australian Human Rights Delegation to China, 14-26 July 1991, Canberra, Commonwealth of Australia.

² Senator Chris Schacht, (1993), Report of The Second Australian Human Rights Delegation to China, 8-20 November 1992, Canberra, Australian Government Publishing Service.

³ Foreign Minister Alexander Downer, (1997), 'Australia and China: Engagement and Cooperation,' Address to the 1997 Australia in Asia Series, 10 September.

⁴ Foreign Minister Alexander Downer, (1997), letter to Australia Tibet Council, 1 May.

The message was loud and clear and well understood by Australia. Since 1997 Australia has used the bilateral dialogue as the only formal instrument with which to engage China on human rights issues.

ATC has closely monitored and engaged with the Australia-China Bilateral Dialogue beginning from 1997. It has consistently raised concerns over the inefficacy of the dialogue process and offered recommendations through submissions to Department of Foreign Affairs and Trade ahead of the annual dialogue. In 2004, it made a detailed submission to the inquiry by JSCFADT into Australia's human rights dialogues.

ATC has not seen any tangible outcome from the dialogue process on the human rights situation in Tibet which in fact has worsened over the years. In principle it is not opposed to a dialogue on human rights. However through this submission ATC reinforces the issues raised on those numerous occasions and questions the effectiveness of the dialogue process on bringing a real change on the ground in China in general and in Tibet in particular.

Ahead of her Beijing visit in April 2011, Prime Minister Julia Gillard highlighted the annual human rights dialogue as the centrepiece of the Australian government's efforts towards improving China's human rights records. According to WikiLeaks cables, Australian envoys told their US counterparts that Australia's human rights dialogue with China has been "punctuated by persistent Chinese denials of human rights abuses and boilerplate or standard responses to Australian concerns."⁵ The same cable noted China has persistently dismissed Australian human rights concerns and in the words of Geoff Raby, Australia's outgoing ambassador to China, it has been "sharp and aggressive" in resisting discussions on the human rights abuses in Tibet.

The 13th Australia-China Human Rights Dialogue in December 2010 took place against a backdrop of increasing human rights violations in Tibet. For the first time since the Cultural Revolution, writers, musicians and intellectuals in Tibet Autonomous Region and Tibetan areas in Chinese provinces⁶ are a target of the Chinese government's attack on any expression of Tibetan identity and culture. Restrictions on religious freedom in Tibetan monasteries have intensified in the last three years since the 2008 uprising and thousands of Tibetan nomads are being removed from their traditional grasslands and settled in concrete blocks under the guise of development in a move that has serious social and environmental ramifications. (More in the "Overview of Tibet situation" section below) Just two months after the bilateral dialogue, China launched the largest crackdown on free speech in over a decade and one that differs ominously in scope, tactics and aims from previous campaigns.⁷

⁵ China laughs off human rights concerns, 27 April 2011

<http://www.smh.com.au/world/china-laughs-off-human-rights-concerns-20110426-1dv4k.html#ixzz1SiTmIOgj>

⁶ In 1965, China created Tibet Autonomous Region, including the traditional province of U-Tsang and the western half of Kham. The remaining half of Kham and Amdo, the other Tibetan eastern province, were incorporated into Chinese provinces of Gansu, Qinghai, Sichuan and Yunnan.

⁷ Crackdown in China, NYT, 7 April 2011

http://www.nytimes.com/2011/04/08/opinion/08iht-edbequelin08.html?_r=4

Human Rights Watch's report "Unfulfilled Promises", released earlier this year,⁸ exposes the failure of the Chinese government to address the important human rights issues unveiled in its National Human Rights Action Plan (NHRAP), the first official human rights action plan.

When it was first announced in April 2009, the NHRAP was seen as having an opportunity for more diverse voices to discuss human rights issues in China and for some of these views to be channelled into an official document. Two years down the track, the NHRAP has been found as a useful counterpoint for the Chinese government in rebutting foreign criticism of its human rights record.

While the Chinese government has pointed to the NHRAP as evidence of its commitment to human rights, it has systematically continued to violate many of the most basic rights the document addresses. It has taken unambiguous steps to restrict rights to expression, association and assembly. It has sentenced high-profile dissidents to lengthy prison terms on spurious state secrets or "subversion" charges, expanded restrictions on media and internet freedom as well as tightened controls on lawyers, human rights defenders, and nongovernmental organisations. It has broadened controls on the Tibetans and the Uighurs, and engaged in increasing numbers of enforced disappearances and arbitrary detentions, including in secret, unlawful detention facilities known as black jails.

The Chinese government's reaction to the Nobel Prize Committee's decision to award the 2010 Nobel Peace Prize to imprisoned writer and human rights activist Liu Xiaobo shows the chasm between the aspirations embodied in the NHRAP and the government's actual behaviour.

⁸ Promises Unfulfilled, Human Rights Watch, 11 January 2011
<http://www.hrw.org/en/reports/2011/01/11/promises-unfulfilled-0>

OVERVIEW OF THE SITUATION IN TIBET

At the time of writing this submission, Tibet or what China calls the Tibetan Autonomous Region is closed to outside tourists. Tibetan capital Lhasa has been virtually sealed off as the Chinese authorities sought to enforce the latest round of official commemoration of “Peaceful Liberation of Tibet” in mid-July 2011, thereby marking the 60th anniversary of China’s rule in Tibet.⁹ Xi Jinping, the Chinese vice-president and the man likely to succeed Hu Jintao in 2013, led the ceremony at which he vowed to smash any plot to destroy stability in Tibet and jeopardise national unity.¹⁰

In Freedom House’s 2011 global survey of political rights and civil liberties, Tibet is listed among the 20 most repressive places in the world.¹¹

ATC has found several areas of ongoing concern in the human rights situation and wishes to draw particular attention to a few issues:

Political arrests

ATC receives numerous reports of political arrests and ill treatment of detainees. There are over 800 political prisoners in Tibet at present. Many were detained during the 2008 uprising, but some have been in prison for much longer.¹² Where cases have gone to trial, international human rights watchdogs have reported an almost complete absence of due legal process.

The arrest of influential Tibetans, including writers, artists, businessmen and environmentalists, is an alarming trend that emerged since the 2008 uprising. They were primarily arrested for “reporting or expressing views, writing poetry or prose, or simply sharing information about Chinese government policies and their impact in Tibet today”.¹³ According to Robbie Barnett, Director of Columbia University’s Modern Tibetan Studies Program, “for the first time, we’re seeing the government attack a group of people who previously had nothing to do with politics”.

Forced removal of nomads

Under the Chinese government’s policy of *tuimu huancao* (removing animals to grow grass) policy, 300,000 families involving 1.43 million Tibetan nomads and farmers had already been moved into new or fixed settlement homes while some 185,500 more families will face

⁹ Earlier celebrations were held in Lhasa on 23 May, the 60th anniversary of the “peaceful liberation” of Tibet, which is based upon the “17-Point Agreement” signed by the representatives of the Tibetan government on 23 May 1951. This agreement, albeit signed under duress, effectively changed Tibet’s international legal status from independent nation to a region of the People’s Republic of China.

¹⁰ Xi Jinping: China will ‘smash’ Tibet separatism, BBC 19 July 2011
<http://www.bbc.co.uk/news/world-asia-pacific-14205998>

¹¹ The least free places on earth, 2011, Foreign Policy, 1 July 2011
http://www.foreignpolicy.com/articles/2011/07/01/the_least_free_places_on_earth_2011?page=0.9

¹² Congressional Executive Commission on China annual report 2010
<http://www.cecc.gov/pages/annualRpt/annualRpt10/CECCannRpt2010.pdf>

¹³ A Raging Storm, International Campaign for Tibet, 18 May 2011
<http://www.savetibet.org/media-center/ict-news-reports/raging-storm-crackdown-tibetan-writers-and-artists-after-tibets-spring-2008-protests>

the same fate by 2013.¹⁴ Deprived of their traditional livelihoods and lacking the education and skills to find employment in Tibet's increasingly urban economy, many former nomads have been driven into poverty.

China's justifications for its nomad resettlement program include opening up the plateau to greater resource extraction and protecting the headwater regions of Tibet's rivers. The latter has been challenged by both Western and Chinese scientists who point instead to the environmental dividends of nomadic herding and the severe environmental degradation that has occurred under Chinese directives. In 2007, Party Secretary Zhang Qingli stated that the restructuring of Tibetan farming and grazing communities was also to counteract the influence of the Dalai Lama.

Religious repression

The restriction on religious freedom is exemplified by the current crackdown on monks of Kirti Monastery in Ngaba (Chinese: Aba in Sichuan). Around 300 monks from the monastery have been detained since April this year after taking part in a demonstration to support the self-immolation of a young monk.¹⁵ The last three years have seen tightening control over religious practice including stepping up of the "patriotic education" campaign in religious institutions as well as lay society, strengthening the control of the CCP in religious institutions, renewed determination by the Chinese authorities to limit the influence of the Dalai Lama in Tibet, increased intervention in Buddhist tradition such as the recognition of reincarnate lamas, and torture and imprisonment of monks and nuns who fail to denounce the Dalai Lama, express dissent or engage in other peaceful expression of views.

Social and economic marginalisation

In its 2009 annual report, the US Congressional-Executive Commission on China stated the Chinese government had strengthened economic development initiatives that will increase further the influx of non-Tibetans into the Tibetan autonomous areas of China and in doing so, increase the pressure on the Tibetan culture and heritage.¹⁶

A report by a delegation of the US Senate Foreign Relations Committee in 2010 stated large-scale infrastructure projects have spurred economic development throughout the region, allowing goods and people to reach markets, while also consolidating the government's administrative hold on Tibet, even in remote areas. Economic development and China's investments in Tibet have clearly improved the lives of many Tibetans, but discrimination, Han migration, and growing income inequalities are also fuelling discontent.¹⁷

¹⁴ EU supports UN rapporteur on Tibetan nomad's right
<http://www.tibetanreview.net/news.php?id=8497>

¹⁵ Protests, tensions escalate in Ngaba following self-immolation of monk, ICT 11 April 2011
<http://www.savetibet.org/media-center/ict-news-reports/protests-tensions-escalate-ngaba-following-self-immolation-monk-kirti-monastery-under-lock>

¹⁶ Annual report – Congressional-Executive Commission on China 10 October 2001
<http://www.cecc.gov/pages/annualRpt/annualRpt09/CECCannRpt2009.pdf>

¹⁷ Money can't buy you love, a US Senate delegation report on Tibet 1 April 2011
<http://www.atc.org.au/news-mainmenu-28/1-latest/1629-money-cant-buy-you-love-us-senate-report>

Restricted access

In November 2009 seven Australian MPs and Senators spent two days in Lhasa as part of a 12-day official visit to China - the first Australian parliamentary delegation to travel to Tibet in nearly two decades. The report on the delegation, tabled by Dr. Andrew Southcott MP, the delegation's Deputy Leader, in May 2010, affirms China's nervousness at hosting foreign observers, discouragement of criticism, masking of sensitive issues and determination to propagate the state-sanctioned version of events: "The phrase 'seeing is believing' was used repeatedly by Chinese officials in relation to the visit in Tibet. However, the delegation was constrained in what it was able to see."

"Whilst the delegation was the first official Parliamentary delegation into TAR in 19 years, it would have been helpful for the delegation to have had meetings with more individuals and groups to enable a greater appreciation of the state of TAR." (p.17)

Members of the most recent Chinese government-led media tour in Tibet also expressed frustration at limited access, including their limited ability to converse with local Tibetans.¹⁸

In addition to restricting the flow of information from Tibet to the outside world, the Chinese Government continues to control the flow of information into Tibet through such measures as internet censorship and the jamming of short-wave radio transmissions by stations including Voice of Tibet and Tibetan services of Voice of America and Radio Free Asia.

¹⁸ A trip to Tibet, with my handlers nearby
<http://www.nytimes.com/2010/08/01/weekinreview/01wong.html>

EVALUATION OF THE BILATERAL DIALOGUE PROCESS

China's current bilateral dialogue partners include Australia, the UK, the US, Canada, the EU, Norway and Switzerland. A number of themes common to all or the majority of bilateral dialogues with China are evident.

Benchmarks

Generally there are no publicly stated benchmarks and an irregular or non-existent programme of evaluation. Amongst the exceptions are the EU and UK (which lists the same 'strategic objectives' as the EU with one or two additions); however neither the EU nor UK has a stated timeframe for the fulfilment of these objectives, and no formal programme of evaluation of the performance of the dialogue against the benchmarks.

Australia's approach to the dialogue includes no articulation of expected outcomes, no timeline over which progress might be measured, no benchmarks for measuring success, and no evaluation process.

The report by JSCFADT on the inquiry into Australia's bilateral dialogues in 2005 stated the current measures for monitoring and evaluating the dialogues are too general.¹⁹ At the hearing related to the inquiry, DFAT replied that whilst there were no specific benchmarks, there was certainly a broad purpose (namely to discuss human rights issues).

This raises the question – is the dialogue an end in itself?

Transparency

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. Some governments try to involve NGOs and debrief to NGOs, and a number publish limited information about the content and outcomes of the dialogue process on Ministry websites; others merely state that a process is taking place. The general theme is of a process 'behind closed doors.'

ATC have participated in parallel meetings with NGO representatives along the margins of the bilateral dialogues in the past. However at the last dialogue in 2010, its request to participate in the meetings was declined due to the Chinese opposition to any NGO involvement.²⁰

National self-interest

Many dialogue partners, including EU member states, have made little secret of the fact that dialogue is more conducive to the enhancement of commercial opportunities than what has been termed 'confrontation' with China on human rights. This description fits the Australian

¹⁹ Australia's Human Rights Dialogue Process, JSCFADT September 2005
<http://www.apf.gov.au/house/committee/jfad/hrdialogue/report/fullreport.pdf>

²⁰ ATC received an email from Human Rights and Indigenous Issues Section of Department of Foreign Affairs and Trade, 10 December 2010

dialogue, perhaps more than most others, and dates back to the very re-establishment of the dialogue in 1997.

From China's point of view, the bilateral dialogue allows them to avoid international criticism of its human rights performance. From Australia's point of view, it becomes a way to do little for human rights in China, thus neutralising a prickly component of the bilateral relations allowing a clear run in pursuit of trade opportunities.

Technical cooperation programmes

Legal and other technical assistance programmes are becoming an increasingly large component of the bilateral dialogue processes. China is successful at establishing the parameters of these and there are inconsistencies amongst dialogue partners of the standards adopted.

The Human Rights Technical Cooperation (HRTC) was originally an 'add on' to the Australian dialogue. Funded through the aid budget, it remains no more than a fraction of total bilateral aid to China. Whilst this and other technical cooperation programmes have some value, there are key problems and limitations, as follows:

- 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.
- There is a failure to consult independent NGOs in their design, implementation, monitoring and evaluation.

Lack of resources

Compared to the human and other resources the Australian government puts into other aspects of its relationship with China, especially trade, the investment in the human rights dialogue is miniscule. The dialogue itself lasts only a few days and involves a small group of officials.

The government does nothing towards actively encouraging public discussion or debate about the dialogue here in Australia let alone in China or Tibet. Even the financial cost of the dialogue is not publicly reported.

RECOMMENDATIONS TO THE AUSTRALIAN GOVERNMENT ON THE BILATERAL DIALOGUE

- ATC supports the continuation of the Australia-China Human Rights Dialogue as one component of a **multi-faceted approach** by the Australian government to promoting human rights in China. The dialogue process may be a part of these strategies, but must not be an obstacle to pursuing other courses of action.
- The dialogue should be **results-oriented** and include **concrete, time-bound objectives**. Each dialogue should have focussed objectives and clear detailed benchmarks against which objectives and progress can be measured and based on international human rights standards.
- Australia's human rights relationship with China should be made **transparent** across the board. 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 item and any outcomes including concrete initiatives and timelines. At the conclusion of each round a **report should be submitted to the Human Rights Sub-Committee** of the JSCFADT. 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.

A **public announcement** ahead of each round detailing when and where it will occur, who is taking part from each country, what will happen and some concrete objectives from the Australian side.

A **public dimension** to the dialogue such as a **media conference** or an open session should be added to the dialogue process.
- The current dialogue process should be expanded by **establishing parallel dialogues between NGOs, human rights experts, academics and other interest groups** from each country.
- 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.

RECOMMENDATIONS – TO THE AUSTRALIAN GOVERNMENT VIS-À-VIS THE TIBET SITUATION

- The Australian government should appoint an officer at the embassy in Beijing charged with specific responsibilities on Tibet. The officer should be able to monitor and report on the human rights situation in Tibet by visiting Tibet Autonomous Region and other Tibetan areas in Chinese provinces.
- The Australian Government should raise the issue of intensifying religious and cultural repression in Tibet, with specific reference to widespread programs of “patriotic education” in monasteries and harsh measures to punish individuals for peaceful expression of their religion and identity.
- The Australian Government should raise concern over the forced resettlement of Tibetan nomads, lack of access to vocational training for Tibetans, suppression of Tibetan language and dependency upon central government subsidies and lack of Tibetan involvement in formulating economic and development policy for Tibet.
- The Australian Government should raise concerns over the ongoing restrictions on the flow of information in and out of Tibet. Specifically, the Australian Government should raise concern over restricted access to Tibetan areas for journalists, foreign tourists and other international observers and punishing of Tibetans for sending information from Tibet.
- The Australian government should raise serious concerns over the complete lack of progress in the Tibet-China dialogue. Specifically, the Government should raise the issue of the outright rejection of a proposal for genuine autonomy within existing provisions of the constitution of the PRC. The Australian Government should encourage the Chinese Government to enter into serious and substantive discussion on the points raised in the “Memorandum on Genuine Autonomy for the Tibetan People”.²¹

²¹ Memorandum on Genuine Autonomy for the Tibetan People
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A trip to Tibet, with my handlers nearby
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