



Submission No 6

Inquiry into Australia's Human Rights Dialogue Process

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AUSTRALIAN COUNCIL
FOR INTERNATIONAL
DEVELOPMENT

PARLIAMENTARY INQUIRY INTO Australia's Human Rights Dialogue Process

**SUBMISSION TO
THE HUMAN RIGHTS SUB-COMMITTEE,
THE JOINT STANDING COMMITTEE ON FOREIGN
AFFAIRS, DEFENCE AND TRADE**

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ACFID is an independent association of Australian non government organisations working in the field of international aid and development.

Summary of Recommendations

Recommendation 1

That the Australian Government provides an annual report to parliament on the progress and outcomes of each human rights dialogue session.

That Australian Parliamentarians participate in all Australian delegations to human rights dialogue sessions.

Recommendation 2

That Australian delegates to human rights dialogues provide specific briefings to Australian NGOs prior to and at the conclusion of each dialogue session.

That the Australian Government invites greater participation of Australian civil society representatives in human rights dialogue meetings, including their involvement in setting dialogue objectives and participation in post-dialogue evaluation.

That the Australian Government use its good offices to promote the involvement of civil society from China, Iran and Viet Nam in human rights dialogue processes.

Recommendation 3

That the role and obligations of Australian Government agencies participating in the human rights dialogue processes should be expanded to include:

- *Close communication with the Australian Agency for International Development*
- *Liaison with other States engaged in human rights dialogues*
- *Identification and completion of specific follow-up activities after each dialogue session*
- *Public disclosure of issues raised pertaining to Australia's human rights record*

Recommendation 4

That Australia's approach to human rights dialogues is substantially revised to incorporate:

- *A clear vision that articulates the purpose and intent of Australia's human rights dialogues*
- *Focused and timely objectives*
- *Strategies to reach the identified objectives*
- *Clearly identified timeframe to fulfil activities*
- *Clear benchmarks to evaluate objectives*

Parliamentary Inquiry Into Australia's Human Rights Dialogue Process

EXECUTIVE SUMMARY

The Australian Council for International Development (ACFID) is an independent association of over 80 Australian non government organisations (NGOs) working in the field of international aid and development. ACFID members are committed to achieving sustainable human development in which people are able to enjoy a full range of human rights, fulfil their needs free from poverty and live in dignity.

ACFID supports an integrated bilateral and multilateral approach to promoting human rights. As one component of a comprehensive strategy to address human rights concerns, Australia's three human rights dialogues can offer an opportunity to pursue commitments to international human rights standards in China, Iran and Viet Nam. However bilateral dialogues should be integrated into multilateral processes, such as the United Nations Commission on Human Rights, to more effectively promote human rights.

ACFID is concerned at the lack of measurable progress in Australia's human rights dialogues with China, Iran and Viet Nam. 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.

ACFID recommends greater public and parliamentary scrutiny of all human rights dialogues processes. This will build public confidence in the bilateral dialogues as one mechanism to promote human rights. ACFID also calls for the development of aims and strategies to achieve desired objectives and measurable benchmarks for each dialogue session on a case-by-case basis. The work of the European Union (EU) and international NGOs in this area is commended to the Human Rights Sub-Committee.

Term of Reference 1: Parliamentary participation and oversight

ACFID recommends enhanced parliamentary oversight of Australia's bilateral human rights dialogues. As a mechanism of public scrutiny to build community confidence in Australia's bilateral human rights dialogue process, ACFID calls for a written report of proceedings of all human rights dialogue meetings to be annually tabled in Parliament.

Noting that parliamentarians have previously participated in only some human rights dialogue meetings, ACFID recommends the involvement of parliamentarians as regular participants in all dialogue sessions. As participants and active observers to the dialogues, parliamentarians should be requested to provide an independent report to the Human Rights Sub-committee of the Joint Standing Committee of Foreign Affairs, Defence and Trade. The report should focus on outcomes, follow-up activities and recommended objectives for future dialogue sessions. ACFID considers that this report should be in addition to any departmental de-briefing of the dialogue sessions.

Recommendation 1

That the Australian Government provides an annual report to parliament on the progress and outcomes of each human rights dialogue session.

That Australian Parliamentarians participate in all Australian delegations to human rights dialogue sessions.

Term of Reference 2: Involvement of non-government organisations

The changing regional and global contexts have led governments across the world to rethink their approach to human rights and security in important ways. Governments are increasingly diverting additional resources to defence, law and order and other means of safeguarding state security. By comparison international development programs, NGOs and aspects of multilateral programs have called for a greater focus on protecting human security and human rights. This has included a call for a greater focus on strengthening the capacity of civil society to be active in human rights initiatives.

ACFID believes it is very important to involve civil society in government initiatives to promote human rights. As one component of a comprehensive approach to promoting human rights and building human security, bilateral dialogues must contribute to enhancing the capability of civil society to hold their own government accountable to international human rights standards. Australia's human rights dialogue process can further this objective in two key areas.

First, Australia must seek the active involvement of civil society representatives from Australia and dialogue-partner countries in the actual dialogue processes. Second, good governance activities implemented through Australia's aid program should focus on assisting civil society to engage in decision-making processes on government policy.

Finally ACFID believes that the link between civil society and human rights dialogues should include, but not be limited to NGOs. In Australia and in dialogue-partner countries there exists a range of religious assemblies, trade unions, industry bodies, and community groups

eager to play an active role in the preparations, implementation and evaluation of human rights dialogue meetings.

Involvement of Australian civil society

ACFID welcomes the opportunity the Australian Government offers Australian NGOs to provide submissions prior to human rights dialogues with China, Iran and Viet Nam. A range of Department of Foreign Affairs and Trade (DFAT) officers have reported the detailed information provided by human rights and development NGOs as 'valuable' to their analysis of human rights situations prior to undertaking a dialogue session¹. ACFID recommends this invitation for Australian NGOs to raise human rights issues for specific dialogue preparations remains open.

ACFID also appreciates that discussion on Australia's human rights dialogues are included as an agenda item for the twice-yearly DFAT-NGO Consultations on Human Rights. However, limitations on time at these general consultations prevent a detailed report and analysis of the outcomes of each human rights dialogue. Furthermore, the timing of DFAT-NGO Consultations on Human Rights can mean specific dialogues may not be discussed until six months after meetings were held. ACFID supports previous requests made to DFAT for specific briefings to be conducted prior to and at the conclusion of Australia-China, -Iran or -Viet Nam Human Rights Dialogues. ACFID's Human Rights and Governance Policy Officer is available to assist with the NGO coordination role for these recommended briefings.

ACFID also urges the Human Rights Sub-Committee to recommend greater participation of Australian civil society representatives in human rights dialogue meetings. As official participants engaged in the dialogue sessions, civil society representatives would be active in providing background information, establishing dialogue objectives and participating in post-dialogue evaluation. There is a high level of interest across the Australian community in China, Iran and Viet Nam. In addition Australian academics, NGOs, human rights activists, private sector and community workers would bring valuable skills, expertise and insight to the dialogue sessions. The inclusion of Australian civil society representatives as independent participants of an Australian delegation would also demonstrate to China, Iran and Viet Nam the pluralistic, democratic and inclusive systems of Australian life that we as a society value and respect.

Involvement of civil society from dialogue-partner States

ACFID notes concerns by Amnesty International that in the three countries with whom Australia has a human rights dialogue the suppression of civil and political freedoms of individuals and groups amounts to a grave violation of human rights². Australia should continue to condemn in the strongest terms any oppression of civil society and dissident groups, both in bilateral dialogues and through multilateral mechanisms.

ACFID urges Australia to invite and support processes to hear the voice of communities from China, Iran and Viet Nam on their human rights concerns. These communities should be provided the opportunity to present Australian delegates with observations on human rights issues.

The involvement of civil society from the three dialogue-partner countries would bring greater transparency and credibility to the discussions and may lead to the delivery of more

¹ Comments provided to NGOs at DFAT-NGO Consultations on Human Rights, held twice yearly.

² Amnesty International Annual Report 2004.

effective outcomes. ACFID notes the challenges for Australian representatives with the expression and assembly of civil society heavily restricted in China, Iran and Viet Nam. However there are numerous opportunities for engagement with diaspora community groups, NGOs outside dialogue-partner countries and international organisations addressing human rights in these three countries. 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.

In pursuing greater liaison with civil society from China, Iran or Viet Nam, ACFID appreciates that many representatives may place themselves at great personal risk when speaking out on human rights violations occurring in their country of origin. While endorsing communication processes that are as transparent and open as possible, ACFID recommends that safeguards be established to ensure that at all times the personal safety of participants is paramount.

ACFID recommends that Australia's interaction with any civil society organisation or group representing China, Iran or Viet Nam be conducted in a manner that is non-political and impartial.

Finally, ACFID believes that Australia should not only request greater involvement of civil society by China, Iran and Viet Nam, but should also exhibit in the human rights dialogue meetings its willingness to expand its own engagement with Australian civil society.

Good governance development programs

The effective involvement of civil society in any human rights dialogue process is greatly dependent on civil society having the capacity and capability to participate in the organisation and affairs of their country. Good governance development activities in the Australian aid program offer an opportunity to build the capacity of civil society to contribute to and influence human rights dialogue discussions.

Recommendation 2

That Australian delegates to human rights dialogues provide specific briefings to Australian NGOs prior to and at the conclusion of each dialogue session.

That the Australian Government invites greater participation of Australian civil society representatives in human rights dialogue meetings, including their involvement in setting dialogue objectives and participation in post-dialogue evaluation.

That the Australian Government use its good offices to promote the involvement of civil society from China, Iran and Viet Nam in human rights dialogue processes.

Term of Reference 3: The roles and obligations of participating agencies

Currently Australian delegations in human rights dialogue processes involve almost exclusively Australian Government representatives. ACFID believes the role and obligations of Australian Government agencies participating in the human rights dialogue processes should be expanded 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
- Public disclosure of issues raised pertaining to Australia's human rights record

It is currently unclear as to the level of involvement of government agencies outside of DFAT in the human rights dialogue processes. ACFID recommends AusAID becomes intimately involved in all stages of human rights dialogue processes. This will assist Australia's development programs to better reflect and address human rights issues raised in dialogue discussions, particularly those issues raised by civil society representatives.

A further obligation of participating agencies is to liaise with representatives of other States involved in human rights dialogue processes. ACFID notes that on some issues of concern, particularly in regards 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.

The completion of follow-up activities after human rights dialogue meetings is a key obligation of government agencies participating in dialogues sessions. To date ACFID considers post-dialogue activities to be under utilised by Australian Government agencies. For example ACFID is unaware of a dialogue report from Australia that is made available to Chinese, Iranian or Vietnamese delegates following each meeting. This would be important to record progress of specific items and would assist in avoiding repetition in future meetings.

Finally Australian Government agencies participating in the human rights dialogue processes are obligated to publicly report on human rights concerns that delegates from partner countries may raise. While acknowledging our overall positive human rights record, some in Australia continue to be marginalised and excluded from enjoying their full human rights. ACFID understands that in the past questions regarding Indigenous Australian rights, asylum seeker and refugee policies have been raised. In the spirit of open acknowledgement of the challenges before us, participating government agencies must be obliged to provide full and complete disclosure of any discussion on issues pertaining to human rights in Australia.

Recommendation 3

That the role and obligations of Australian Government agencies participating in the human rights dialogue processes should be expanded to include:

- *Close communication with the Australian Agency for International Development*
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- *Public disclosure of issues raised pertaining to Australia's human rights record*

Terms of Reference 4 & 5: Reporting requirements and mechanisms, the monitoring and evaluation of outcomes

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. In the absence of clear aims, strategies or minimum benchmarks, it is impossible to directly link any positive progress in human rights in China, Iran or Viet Nam with Australia's bilateral dialogues. It remains unclear as to how the Australian Government ascertains the success, or lack thereof, of its bilateral approach to human rights. This has made evaluation of the outcomes of Australia's human rights dialogue processes extremely difficult. ACFID recommends formal, public reporting requirements for all human rights dialogues through the Australian Parliament, in conjunction with the development of transparent mechanisms for monitoring and evaluating dialogue outcomes.

DFAT currently provides a scant summary of the history and background of Australia's human rights dialogues on its web page: http://www.dfat.gov.au/hr/dialogue_general.html. Regarding the Australia-China dialogue, DFAT believes the dialogues have,

matured to a point where no subjects are off limits. We were able to raise all our concerns about the human rights situation in China, as well as examine those areas in which progress had been made³

Human rights dialogues with Viet Nam have also been noted as 'mature'. Overall the DFAT summary is unflinching in its praise for Australia's human rights dialogue process. 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.

Australia is not the only country to engage in bilateral human rights dialogues. By and large all States have struggled to identify key human rights objectives and demonstrable indicators of any positive progress. The EU General Affairs Council (GAC) has made some attempt to benchmark the progress of its human rights dialogues through the EU Guidelines on Human Rights Dialogues, adopted in December 2001⁴. The guidelines require the EU to 'on a case-by-case basis, establish criteria for measuring the progress achieved in relation to the benchmarks and also criteria for a possible exit strategy'. 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:

1. Ratification and implementation of all UN human rights instruments
2. Promotion of civil and political and economic, social and cultural rights at a community, regional and national level
3. Unhindered access by UN human rights and humanitarian agencies and independent monitors
4. Compliance with the UN safeguards guaranteeing the rights of those facing the death penalty⁵ as a first step towards abolition of the death penalty

³ Dept of Foreign Affairs and Trade, Human Rights website
http://www.dfat.gov.au/hr/achrd/aus_proc_dialogue.html accessed 7 June 2004

⁴ The E.U. Guidelines on Human Rights Dialogues, agreed upon by the GAC on December 13, 2001
http://europa.eu.int/comm/external_relations/human_rights/doc/ghd12_01.htm

⁵ Adopted by the Economic and Social Council resolution 1984/50, 25 May 1984.

ACFID urges the Australian Government to adopt similar guidelines for its human rights dialogue processes. To assist in measuring progress, Australia should, among other criteria, rely on first-hand observations of EU delegations, reports of UN special rapporteurs and working group delegations, NGO reports, and reports from civil society in each dialogue-partner country. ACFID is also convinced that if human rights concerns are to be positively addressed through Australia's bilateral dialogues, mechanisms for public and parliamentary scrutiny must be incorporated into any credible dialogue guidelines.

Finally, as noted above, greater transparency of discussion on human rights issues in Australia is required. The Australian delegation should outline the concerns raised by dialogue-partner countries and identify how and where it will respond to specific items.

Recommendation 4

That Australia's approach to human rights dialogues is substantially revised to incorporate:

- *A clear vision that articulates the purpose and intent of Australia's human rights dialogues*
- *Focused and timely objectives*
- *Strategies to reach the identified objectives*
- *Clearly identified timeframe to fulfil activities*
- *Clear benchmarks to evaluate objectives*

ACFID MEMBER AGENCIES

Action Aid Australia (For Those Who Have Less)
Adventist Development and Relief Agency
AESOP Business Volunteers Limited
African Enterprise Australia
AID/WATCH
Amnesty International Australia
Anglican Board of Mission - Australia Limited
ANGLICORD
Archbishop of Sydney's Overseas Relief & Aid Fund
Assisi Aid Projects
AUSTCARE: Australians Caring for Refugees
Australian Conservation Foundation
Australian Cranio Maxillo Facial Foundation
Australian Education Union
Australian Federation of AIDS Organisations
Australian Foundation for the Peoples of Asia and the Pacific
Australian Legal Resources International
Australian Lutheran World Service
Australian National Committee on Refugee Women, The
Australian Red Cross
Australian Relief and Mercy Services
Australian Reproductive Health Alliance
Australian Volunteers International
Baptist World Aid Australia
Burnet Institute
CARE Australia
Caritas Australia
CCF Australia
Child Wise
Christian Blind Mission International (Australia)
Christian World Service/National Council of Churches in Australia
Community Health and Tuberculosis Australia
Credit Union Foundation Australia
Diplomacy Training Program Ltd
Foresight (Overseas Aid and Prevention of Blindness)
Foundation for Development Cooperation
Fred Hollows Foundation
Friends of the Earth (Australia)
Habitat for Humanity Australia
International Centre for Eyecare Education
International Christian Aid Relief Enterprises Limited
International Nepal Fellowship (Aust) Ltd
International Women's Development Agency
Interserve Australia
Leprosy Mission Australia
Live & Learn Environmental Education
Marist Mission Centre
Melbourne Overseas Mission Fund
Mercy Works Inc.
Mineral Policy Institute
Mission World Aid Inc.
Muslim Aid Australia

Nusatenggara Association Inc.
Opportunity International Australia
Overseas Pharmaceutical Aid for Life
Oxfam-Community Aid Abroad
Oz GREEN - Global Rivers Environmental Education Network Australia Inc.
PALMS-Volunteering for a Global Mission
PLAN International Australia
Project Vietnam
Quaker Service Australia
RedR Australia
Refugee Council of Australia
RESULTS Australia
Salesian Society Incorporated
Samaritan's Purse Australia Limited
Save the Children Australia
Sexual Health & Family Planning Australia
SIMAID
TEAR Australia
Transparency International Aust.
UNICEF Australia
Union Aid Abroad-APHEDA
United Nations Association of Australia
Uniting Church Overseas Aid
Victorian Foundation for Survivors of Torture Incorporated
Vinacare
World Vision Australia
World Wide Fund for Nature Australia
YWCA of Australia