



Submission No 4

**Review of the Department of Foreign Affairs and Trade
Annual Report 2009 - 2010**

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Australian Bahá'í Community

Office of External Affairs

Submission to the Review of the Department of Foreign Affairs and Trade Annual Report by the Parliamentary Joint Standing Committee on Foreign Affairs, Defence and Trade

Australian Bahá'í Community

The Australian Bahá'í Community was established in 1920 and its membership reflects the diversity of modern Australia. As members of the Bahá'í Faith—a worldwide religion, founded over 160 years ago, with more than five million members around the globe—we work to promote and apply principles derived from Bahá'í teachings which contribute to the solution to current challenges facing humanity. Our efforts are focussed on the development of a united, peaceful, just and sustainable civilisation.

The Australian Bahá'í Community undertakes a range of activities to promote and protect human rights at international, national, state and local levels. Our work is in line with the Bahá'í belief that an equal standard of human rights must be recognised and adopted for all humanity. We support the goals of the United Nations Charter and have a wide-ranging interest in the human rights machinery of the UN. We have published statements and submissions on a range of human rights issues. We participate in the Department of Foreign Affairs and Trade and Attorney-General's NGO consultations on human rights and currently convene the Australian Forum of Human Rights Organisations.

Australian Foreign Policy Objectives

Australia has a proud history of support for multilateral human rights instruments and institutions and of promoting human rights through bilateral means. The review by the Parliamentary Joint Standing Committee on Foreign Affairs, Defence and Trade of the Department of Foreign Affairs and Trade Annual Report provides an opportunity to consider how Australia could build on that history, and its position as a democratic nation in an increasingly important region of the world, to take on a role of international and regional human rights leadership.

We note that the annual report reiterates the department's intention to "advance a number of key strategies in support of the Government's national security agenda".¹ This submission is directed to those strategies aimed at "strengthening global cooperation in such areas as the environment, human rights and good governance" and "working multilaterally to address global challenges and to advance Australia's interests, including our bid for United Nations Security Council candidacy for the 2013–14 term".² It also addresses the related deliverable, "Effective advocacy to strengthen good governance and democracy, including advocacy of human rights."³

The annual report states, "The promotion of universal human rights is an important foreign policy objective, which was reflected in strong Australian engagement on priority human rights issues during 2009–10".⁴ The Australian Bahá'í Community holds the view that the promotion and

¹ Department of Foreign Affairs and Trade Annual Report 09|10, page 21

² *ibid*, p. 21

³ *ibid*, p. 22

⁴ *ibid*, p. 102

protection of human rights, undertaken within the context of the framework and standards established by the Universal Declaration of Human Rights, is not just an important foreign policy objective but must be at the very heart of Australia's foreign policy. The world increasingly faces challenges which are global in nature, such as economic disparities, sustainable development, security, environmental degradation and peace, to name but a few. In addressing all such challenges, attention is turning increasingly to the responsibilities of states vis-à-vis the protection and promotion of human rights. If our foreign policy is to meet the challenges of the 21st century, universal, indivisible, interrelated and interdependent human rights have to be at the centre of foreign policy.

In this regard, we draw the Committee's attention to the following recommendations on human rights in Australian foreign policy from the attached policy paper developed jointly by Australian human rights NGOs, including the Australian Forum of Human Rights Organisations, of which we are a member:

- The Government should develop a white paper on human rights and foreign policy. Such a paper could strengthen policy coherence, identify priorities for action, and make concrete, measurable commitments across all areas of Australian foreign policy which impact on human rights.
- The Government should consider identifying an issue or theme on which to provide strong and distinctive international human rights leadership, such as gender equality and empowerment, GLBTI rights, business and human rights responsibilities or freedom of religion or belief.
- The Government should negotiate the inclusion of human rights safeguards in bilateral and multilateral agreements and undertake Human Rights Impact Assessments as part of doing business abroad, including in the areas of trade, investment and military cooperation.
- The Government should appoint a permanent, full-time Australian Human Rights Ambassador to promote human rights across all areas of foreign policy and ensure a coordinated and coherent approach to human rights at the international level.
- The Government should establish a high-level Human Rights Advisory Committee comprising experts from NGOs, academia and human rights bodies to provide external advice on human rights in foreign policy and on options for addressing human rights problems.
- The Government should provide such additional resources to DFAT as is necessary for Australia to become a more active and effective human rights promoting state, including by strengthening DFAT's human rights expertise, increasing the number of human rights policy officers and incorporating human rights and gender equality modules in all training (including pre-deployment).

Reporting on General Human Rights Activities

One section of the annual report, reproduced in italics below for ease of reference, is specifically addressed to human rights.⁵

⁵ *ibid*, pp. 102-103

UN human rights forums

The department coordinated the Government's approach to human rights issues in the Social, Humanitarian and Cultural Affairs Committee (the Third Committee) of the United Nations General Assembly in 2009. Australia played an active role in the adoption of significant human rights resolutions, including those on human rights in Burma, DPRK and Iran.

Through our UN mission in Geneva, we continued to engage actively in UN Human Rights Council (HRC) discussions. We participated in a Special Session of the HRC on the earthquake in Haiti, which considered issues such as access to food, drinkable water and health care, and the situation of vulnerable groups. We continued to bring to the HRC's attention serious human rights situations around the world.

We engaged actively in the 6th, 7th and 8th sessions of the HRC's Universal Periodic Review, a process that involves an interactive peer review of the human rights records of all UN member states. Australia made practical recommendations on how states under review might improve their human rights situations. Australia's Review will be held in January 2011.

We submitted Australia's latest periodic report to the Committee on the Elimination of Racial Discrimination (CERD) in January 2010 and coordinated the Government's appearance before the Committee in August 2010.

Following the issue of a standing invitation to UN Special Procedures mandate-holders in August 2008, the department welcomed visits to Australia by the Special Rapporteur on Indigenous People, Mr James Anaya, and the Special Rapporteur on the Right to Health, Mr Anand Grover.

We applaud Australia's renewed commitment to engagement with the United Nations and the evidence of its willingness to cooperate fully with UN human rights mechanisms, such as the Treaty Bodies. We note that Australia took a "best practice" approach to its Universal Periodic Review at the UN Human Rights Council in January 2011 and we were pleased to take an active role as an Australian NGO in the consultative processes supported by the government in the lead up to the Review. Australia's engagement and cooperation puts it in a strong position to use UN mechanisms to promote and protect human rights internationally as well as to advocate with other States in the region to similarly support and cooperate with the UN human rights system. To this end, we note that elsewhere in the annual report, reference is made to Australia's support of engagement by Laos in the Universal Periodic Review process,⁶ an approach we would encourage in other parts of the region to assist in the promotion and protection of human rights.

We commend Australia for its endeavours to use multilateral means to promote and protect human rights, including through active support for country resolutions and other measures at the UN Human Rights Council and the UN General Assembly. We note that elsewhere in the report it is stated "The department will continue to focus on active engagement in the multilateral system as a means to advance Australia's interests in international security, human rights, climate change and global economic and development issues."⁷

⁶ *ibid*, p. 41

⁷ *ibid*, p. 109

We also draw to the Committee's attention the following recommendations on Australia and the United Nations Human Rights System from the attached combined NGO policy paper:

- Consistent with Australia's constructive re-engagement with the UN human rights system and recent 'best practice' approach to the Universal Periodic Review, the Government should:
 - commit to 'best practice' in follow up and implementation of UPR, Special Procedure and treaty body recommendations, including by developing stronger domestic follow up mechanisms (such as through a specific mandate to the proposed Joint Committee on Human Rights);
 - more actively engage in the election of appropriate Council members and support for the candidacies of qualified treaty body members and Special Procedures; and
 - play a more proactive role in – and in relation to – the Human Rights Council, including by advocating for a strengthening of its mandate and modalities in the forthcoming General Assembly review.
- Consistent with Australia's commitment to the universality and interdependence of human rights, together with accountability for breaches, the Government should expedite ratification of the *Optional Protocol to the International Covenant on Economic, Social and Cultural Rights*, the *Optional Protocol to the Convention against Torture*, the *International Convention on the Protection of the Rights of All Migrant Workers* and *ILO Convention 169 on Indigenous and Tribal Peoples*.
- Australia should commit its 2013-2014 UN Security Council candidacy to the global promotion, protection and realisation of human rights and the more intensive engagement of the Security Council in this endeavour, including by promoting the links between the realisation of human rights and international peace and security, thereby better focusing the attention of the Council on human rights issues.

The human rights section of the annual report continues:

In conjunction with AusAID, we established an expert panel to consider applications for the Human Rights Grants Scheme. In 2009–10, the scheme provided \$2.95 million to fund grassroots projects that promote and protect human rights across Asia, the Pacific, Africa, the Middle East, Latin America and the Caribbean.

We welcome the establishment of the expert panel for the Human Rights Grants Scheme. Our views on the intersection between human rights and development are set out in our submission to the Independent Review of Aid Effectiveness.⁸

We also draw the Committee's attention to the following recommendations on a human rights-based approach to aid and development from the attached joint NGO policy proposal paper:

- The Government and AusAID should adopt a human rights-based approach to aid and development policies and programs, including in relation to policy and program design, implementation, partnerships, training, monitoring and evaluation.
- The Government should increase aid and development funding to programs explicitly directed towards the promotion and protection of human rights, including the Human Rights Grants Scheme.

⁸ http://www.bahai.org.au/LinkClick.aspx?fileticket=c_BkolydVvE%3d&tabid=162.

The human rights section of the annual report goes on to state:

Indigenous Issues

Through the UN mission in New York, the department supported a high-level Australian delegation to the ninth session of the UN Permanent Forum on Indigenous Issues in April 2010. We facilitated Australian Government engagement with the Expert Mechanism on the Rights of Indigenous Peoples.

We draw the Committee's attention to the following recommendation on Australia and indigenous people's rights from the attached joint NGO policy proposal paper:

- The Government should engage in further consultation with Aboriginal and Torres Strait Islander peoples as to implementation of the recommendations of the Report on Australia by the Special Rapporteur on the Rights of Indigenous Peoples (A/HRC/15/47.Add.4).

The final part of the human rights section of the annual report states:

Dialogues, consultations and representations on human rights

In September 2009 and February 2010, the department held human rights consultations with a range of Australia-based non-government organisations (NGOs). We co-hosted the inaugural NGO Forum with the Attorney-General's Department in June 2010, which included participation by both the Attorney-General, Mr McClelland, and Mr Smith.

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.

Through our overseas missions, we made global representations against the death penalty to all countries that carry out executions or maintain capital punishment as part of their laws.

The Australian Bahá'í Community is pleased to be an active participant in the Australian Government consultations with NGOs on international human rights and to provide assistance to the Australian Forum of Human Rights Organisations in support of the collective engagement of NGOs on international human rights matters. We are encouraged by the acknowledgement of the positive role of NGOs in advancing human rights in the Department of Foreign Affairs and Trade Human Rights Manual, which states:

Concern for human rights and fundamental freedoms is not the reserved domain of States...Given their independence, commitment and diversity, NGOs play a legitimate, well-established and respected role both domestically and internationally in the promotion and protection of human rights...The work of the Australian Government in the human rights field is reinforced by the ongoing relationship which exists between the government and human rights NGOs. While the views and methodologies of NGOs do not always coincide with those of Government, the input which NGOs bring to the domestic and

international human rights debate is both legitimate and an important source of positive dialogue.⁹

We trust that the increasing demands on the human and other resources of the Department will not lead to a reduction in the opportunities provided to NGOs to engage in meaningful consultation with Government on international human rights concerns.

In considering Australia's engagement in human rights dialogues, such as the Australia-Vietnam Human Rights Dialogue, the Committee may find it helpful to refer to the points below originally outlined in the attached joint NGO statement on the human rights dialogue process.

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

⁹ Department of Foreign Affairs and Trade Human Rights Manual 1998, Chapter 6, http://www.dfat.gov.au/hr/hr_manual/chp6.html

Country-Specific Reporting

Human rights are also addressed in the sections where country-specific reporting occurs. Here the annual report refers to actions taken by Australia in regard to violations of human rights in countries such as Burma (p 41), China (p 29), DPRK (p34), Fiji (p 77), Iran (p 66), Vietnam (p 40) and Zimbabwe (p 99). We commend Australia on its efforts to address serious human rights violations in specific contexts and encourage Australia to take action to protect the rights of those affected by egregious human rights violations wherever they occur. We also take this opportunity to express our particular gratitude for Australia's efforts to protect the oppressed Bahá'í community of Iran and to try to ensure that all Iranians will be able to enjoy the human rights to which they are entitled under international and Iranian law.

We also draw the Committee's attention to the country-specific recommendations made in the final section of the attached joint NGO policy proposal paper. We are pleased to note that the recommendation on Iran has already been implemented.

Freedom of Religion or Belief

The annual report states: "In May 2010, we hosted a visit to Australia by the Permanent Secretary of Brunei's Ministry of Religious Affairs, with a focus on Islam in Australia, interfaith dialogue and expanding education links"¹⁰. It also reports: "We coordinated the fifth Regional Interfaith Dialogue which was held in Perth on 28–30 October 2009. The Dialogue was attended by 146 delegates from 14 countries. With its theme 'future faith leaders', the Dialogue contributed to mutual respect and understanding among the diverse faith groups of the region."¹¹

The Australian Baha'i Community is a regular organiser of and participant in interfaith dialogue and projects in Australia. It is our view that religious prejudice is one of the last great barriers dividing humanity against itself. In a region of great religious diversity and with a national commitment to supporting interfaith harmony within its own borders, Australia is well placed to promote interfaith relations at the international level. We congratulate the Department for its support of such initiatives which, aside from their intrinsic merit, also offer a strong platform for upholding the right to freedom of religion or belief.

As we have stated previously,¹² one of the central and most challenging human rights issues shaping inter and intra-State relations today is the right to freedom of religion or belief. In "Freedom to Believe",¹³ the Bahá'í Community urged the United Nations to give serious consideration to four critical yet neglected issues related to the right to freedom of religion or belief: (1) the right to change one's religion or beliefs; (2) the right to share one's beliefs with others; (3) the responsibilities of the international community and national governments vis-à-vis marginalized and peacefully organized religious communities; and (4) the responsibilities of religious leaders vis-à-vis the promotion and protection of the right to freedom of religion or belief. In considering Australia's role in promoting interfaith dialogue and preventing and redressing human rights violations, we encourage the Committee to take these issues into account.

¹⁰ DFAT Annual Report, op cit p 41

¹¹ ibid p 42

¹² Insert link to submission

Australia and Women's Rights

The annual report refers to the Department's engagement in whole of government coordination to combat people trafficking, including that of women and children,¹⁴ and it reports on the Direct Aid Program through which small projects including projects addressing gender equality are funded.¹⁵ It also reports: "Our key workplace diversity events included NAIDOC Week in July 2009 and International Women's Day in March 2010. Through our overseas network and state and territory offices, we recognised and promoted the contributions women make to society in Australia and globally, by hosting celebrations to commemorate International Women's Day on 11 March 2010. The events focused on the many challenges faced by women in leadership roles."¹⁶

We recognise the role that the Australian Government Office for Women plays in regard to Australia's engagement on international women's issues but it is disappointing that the annual report does not have more to say about Australia's role in the promotion of women's rights internationally and in our region, where indicators of gender inequality, such as violence against women and women's leadership, are among the world's worst.

We also refer the committee to the following recommendations on Australia and women's rights from the attached policy paper developed jointly by Australian human rights NGOs.

- The Government should establish the post of Ambassador for Women's Rights to champion gender equality and women's empowerment, promote the eradication of violence against women and strengthen efforts to enhance women's political participation in the region.
- The Government should fully fund and implement the National Action Plan on Women, Peace and Security in accordance with UN Security Council Resolution 1325. Australia should also work cooperatively with other governments in the region to assist in the development and implementation of their national action plans.
- The Government should fully fund implementation of the recommendations in the *Stop Violence: Responding to Violence against Women in Melanesia and Timor Leste* report.

Human Resources

The annual report notes:

The department managed staff flexibly and effectively in response to the Government's policy priorities in 2009–10, including the International Commission on Nuclear Non-Proliferation and Disarmament and the United Nations Security Council campaign; combating people smuggling; enhancing our engagement with Latin America, Africa and the Pacific; extending Australia's diplomatic presence in Afghanistan; and commencing work on expanding our diplomatic presence in Lima, Chennai, Mumbai and Addis Ababa.

¹³ "Freedom to Believe: Upholding the Standard of the Universal Declaration of Human Rights", Bahá'í International Community's Statement on the Freedom of Religion or Belief, October 2005, <http://bic.org/statements-and-reports/bic-statements/05-1001.htm>

¹⁴ DFAT annual report, op cit, p 104

¹⁵ ibid p136

¹⁶ ibid pp 199-200

In line with the government's changing priorities, funding was provided during 2009–10 for new positions, including 31 new A-based positions overseas, 17 new locally engaged staff positions overseas, and 25 new positions in Canberra. These additional resources enhanced productivity and strengthened the department's capacity to perform the full range of its foreign, trade, security, consular and passport responsibilities.¹⁷

It is our observation that over the last decade, a process of attrition has resulted in staffing levels devoted to human rights work having reached the point where they are inadequate to meet the demands being placed upon the Department. This is in no respect a reflection on the calibre of departmental staff members who, in the experience of the Australian Bahá'í Community, are professional, committed, responsive and extremely hard-working.

The situation can only worsen in the face of the foreign policy objectives laid out by the Government. We of course welcome the Government's respect for human rights and its commitment to greater engagement with the UN, including the international human rights mechanisms, and we applaud the vision of Australia conducting itself as a good international citizen. We fear, however, that the human resources currently allocated to this work are completely inadequate to meet the laudable goals and vision which have been set. We also note that even in the absence of new foreign policy objectives, the establishment of the Human Rights Council has generated an increased workload which spreads over the whole year and there are severe and increasing challenges to human rights internationally which will continue to make serious demands upon Australia.

As the Minister for Foreign Affairs himself observed:

The truth is, DFAT was starved for a decade.

Some improvement has occurred as a result of Mr Smith's leadership.

But I am acutely conscious of a core fact: we now have 18% fewer staff abroad than we did in 1996 while, in the rest of the APS, there are now 12% more staff.

I am also conscious of the fact that of all G20 countries, Australia has the smallest diplomatic footprint of all, with posts in less than half the capitals of the world.

It will take time to change the underinvestment of a decade.

And at a time when total government budget disciplines are paramount.

But the fact remains we must properly resource this great Australian foreign service for the great demands that will be placed on it for the future.¹⁸

In this regard, we reiterate to the Committee the following recommendation from the attached joint NGO paper referred to above:

- The Government should provide such additional resources to DFAT as is necessary for Australia to become a more active and effective human rights promoting state, including by strengthening DFAT's human rights expertise, increasing the number of human rights

¹⁷ *ibid* p 198, also see Appendix 2

¹⁸ Hon Kevin Rudd MP, "The Future of the Australian Foreign Service, Commemorating the 75th Anniversary of the Establishment of the Modern Department of Foreign Affairs and Trade", Canberra, 18 November 2010 http://www.foreignminister.gov.au/speeches/2010/kr_sp_101118.html

policy officers and incorporating human rights and gender equality modules in all training (including pre-deployment).

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The Australian Bahá'í Community welcomes the Review of the Department of Foreign Affairs and Trade Annual Report. We thank the Committee for this opportunity to make a submission as part of the review process. We look forward to the outcomes of the review and would be pleased to provide any further feedback or information that may be required.

Australian Bahá'í Community
April 2011