

Introduction

Referral

- 1.1 On Wednesday 10 March 2004, the Minister for Foreign Affairs, the Hon Alexander Downer, MP referred an inquiry into Australia's human rights dialogue process to the Joint Standing Committee on Foreign Affairs, Defence and Trade (JSCFADT).
- 1.2 The reference lapsed when all committees of the House of Representatives and joint committees of the Senate and House of Representatives of the 40th Parliament were dissolved on Tuesday 31 August 2004.
- 1.3 The JSCFADT resolved to re-refer the inquiry in the new Parliament, on Thursday 2 December 2004.

Inquiry Process

- 1.4 The Human Rights Sub-Committee (hereafter referred to as the Committee) of the JSCFADT conducted the inquiry.
- 1.5 The Committee advertised the inquiry with a press release on April 14 2004. The press release outlined the inquiry, included the terms of reference and sought written submissions from the public.
- 1.6 In addition, the Committee invited submissions from relevant government agencies, embassies, non-government organisations (NGOs), legal and academic quarters, and human rights interest groups.
- 1.7 The inquiry received 20 submissions and 8 exhibits which are listed in Appendix A.
- 1.8 The Committee placed submissions and other information relating to its inquiry on its web site in order to encourage further public participation.

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- 1.9 On Monday 14 March 2005, the Committee took evidence from a range of departmental agencies and NGOs at Parliament House in Canberra. A list of the witnesses who appeared at the hearing can be found in Appendix B.
- 1.10 Copies of the submissions and the transcript of evidence from the public hearing are available from the Committee's web site.¹

Report Structure

- 1.11 The report comprises six short chapters.
- 1.12 Chapter 1 provides an outline of the inquiry process and an overview of Australia's bilateral human rights dialogues and associated activities with dialogue partners China, Vietnam and Iran.
- 1.13 Chapter 2 focuses on the issue of parliamentary participation in and oversight of the human rights dialogue process.
- 1.14 Chapter 3 concentrates on the involvement of NGOs in the bilateral dialogues.
- 1.15 Chapter 4 describes and assesses the roles and obligations of participating agencies.
- 1.16 Chapter 5 deals with the reporting requirements and mechanisms of the dialogue process.
- 1.17 Finally, Chapter 6 considers the monitoring and evaluation of the outcomes of the dialogues.

Background

Overview of Australia's Bilateral Human Rights Dialogues and Associated Activities

- 1.18 The Department of Foreign Affairs and Trade (DFAT) states that "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.²

1 <http://www.aph.gov.au/house/committee/jfadt/hrdialogue/hrindex.htm>

2 Submission no. 17, DFAT, p. 4

- 1.19 In the cases of China, Vietnam and Iran this engagement includes a dedicated bilateral dialogue on human rights issues.³
- 1.20 The DFAT web site states that:
- “The Australian Government firmly believes that non-confrontational, cooperative dialogue is the most effective way to address the human rights situations in other countries.”⁴
- 1.21 Through these dialogues, Australia is able to raise a full range of concerns about human rights issues with senior government officials, and to encourage frank discussion of these matters, including making representations on behalf of individuals whose human rights may have been abused.⁵
- 1.22 The dialogue partner has equal opportunity to raise matters relating to human rights concerns in Australia.
- 1.23 The Government believes that the dialogues are more effective when coupled with well-targeted technical cooperation activities to improve dialogue partners’ own efforts to protect the human rights of their citizens.⁶ To this purpose, and in addition to the formal set of talks between the official delegations and representations on individual cases of concern, the dialogue process incorporates:
- programs of site visits by the visiting delegation; and
 - technical cooperation activities in the dialogue partner country, designed to raise awareness of international human rights standards and to improve human rights on the ground.⁷
- 1.24 All site visits and technical cooperation activities are designed in partnership with dialogue partners:
- “Our program works to expose the [partner] to the processes of rights protection in Australia and then, when the [dialogue partner] has decided which aspects of rights promotion and protection are relevant to their circumstances, to provide support for them to pursue the appropriate reforms....By supporting [the partner’s] own reform, rather than trying to impose our suggestions, we have been able to establish relationships with trust and confidence, and...enhance the sustainability of our inputs.”⁸
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3 Submission no. 17, DFAT, p. 4

4 DFAT Website, viewed 20 April 2005, http://www.dfat.gov.au/hr/dialogue_general.html

5 DFAT Website, viewed 20 April 2005, http://www.dfat.gov.au/hr/dialogue_general.html

6 DFAT Website, viewed 20 April 2005, http://www.dfat.gov.au/hr/dialogue_general.html

7 Submission no. 17, DFAT, p. 4

8 Official Transcript of Evidence, HREOC, pp. 14-15

- 1.25 Appendix C contains an overview, in table form, of Australia's human rights dialogue process and associated activities. The following paragraphs offer a short chronological summary of the three dialogues, with China, Vietnam and Iran, respectively.

Australia – China Human Rights Dialogue

- 1.26 Prime Minister Howard first proposed the establishment of a formal bilateral human rights dialogue with his then counterpart from China, Premier Li Peng, on his visit to China in March-April 1997. The first talks (conducted at Vice Minister/Deputy Secretary level) were held in Beijing in August 1997.⁹
- 1.27 Since 1997, there have been nine annual rounds of private dialogues, hosted in China and Australia in alternate years.¹⁰
- 1.28 The first round of the dialogue only involved officials from the Australian and Chinese foreign ministries. The following year participants expanded to include officials from other agencies. The Australian delegation now includes representatives from the Attorney-General's Department, the Australian Agency for International Development (AusAID) and the Human Rights and Equal Opportunity Commission (HREOC).¹¹
- 1.29 Topics covered at the dialogues have included:
- restrictions on freedom of assembly, association, expression and religion;
 - the human rights situations in Tibet and Xingiang, and that affecting other ethnic and religious groups, including the Falun Gong;
 - the treatment of dissidents;
 - legal reform (including ratification of the International Covenants);
 - the use of the death penalty;
 - use of torture and other degrading practices; and
 - reports of coercion in the implementation of China's family planning practices.¹²
- 1.30 A list of the topics discussed at each dialogue session is provided in Appendix D.
- 1.31 At the first dialogue meeting, the Australia-China Human Rights Technical Cooperation Program (HRTC) was established to complement

9 Submission no. 17, DFAT, p. 4

10 DFAT Website, viewed 23 August 2005,
http://www.dfat.gov.au/hr/achrd/aus_proc_dialogue.html

11 Submission no. 17, DFAT, p. 4

12 Submission no. 17, DFAT, p. 5

the dialogues. Since 1997, the HRTC has continued to grow in size and scope. At February 2005, expenditure on the program totalled approximately \$6.5 million.¹³ Table 1 of DFAT's submission provides details of all the HRTC activities to date, and includes projects that focus on capacity building and institutional strengthening, in the areas of legal reform, women and children's rights, and ethnic and minority rights.¹⁴

Australia – Vietnam Human Rights Dialogue

- 1.32 A bilateral human rights dialogue with Vietnam on international organisations and legal issues, including human rights was first considered in 1997. The first talks (conducted at First Assistant Secretary level) were held in Hanoi in May 2002.¹⁵
- 1.33 Since 2002, there have been 3 annual rounds of private dialogues, hosted in Vietnam and Australia respectively.¹⁶
- 1.34 The Australian delegation includes representatives from DFAT, Attorney-General's Department, AusAID and HREOC.¹⁷
- 1.35 Discussion topics at the dialogue sessions have included:
- respective national approaches to human rights;
 - cultural and religious diversity;
 - judicial reform and approaches to criminal law;
 - international organisations and legal issues;
 - women and children;
 - restrictions on the use of the internet; and
 - the death penalty.¹⁸
- 1.36 A list of the topics discussed at each dialogue session is provided in Appendix D of this report.
- 1.37 HREOC does not yet have an established human rights technical cooperation program with Vietnam in the way that it does with China, although an initial planning mission in Vietnam was undertaken in January 2005.¹⁹

13 Submission no. 17, DFAT, p. 17

14 Submission no. 17, pp. 22-29

15 Submission no. 17, DFAT, p. 5

16 Submission no. 17, DFAT, p. 5

17 Submission no. 17, DFAT, p. 5

18 Submission no. 17, DFAT, p. 6

19 Official Transcript of Evidence, HREOC, p. 19

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- 1.38 However, there has been a number of technical cooperation-related activities to date.
- 1.39 In 2003, following the second dialogue in Canberra, HREOC ran a study tour to familiarise Vietnamese officials with the institutional structure for the promotion and protection of human rights in Australia, and to assist Australian officials to identify the human rights priorities of Vietnam and determine the capacity of Australia and Vietnam to work together on them. Details of the organisations visited on the study tour are provided in Attachment 2 of HREOC's submission.²⁰
- 1.40 Further AusAID-funded bilateral human rights assistance includes:
- \$610, 000 of funding to the Ho Chi Minh National Political Academy (HCMNPA) – Vietnam Centre for Human Rights Research (VCHRR);
 - funding for judicial exchange programs between the Federal Court of Australia and the Supreme People's Court of Vietnam, run by the Centre for Democratic Institutions (CDI) at the Australian National University; and
 - \$192, 096 of funding via the Human Rights Small Grant Scheme (HRSGS) for projects that support the provision of legal advisory services for women and children.²¹

Australia – Iran Human Rights Dialogue

- 1.41 Australia is one of the few countries to have instigated a dedicated bilateral dialogue on human rights issues with Iran.
- 1.42 The then Deputy Prime Minister and Minister for Trade, Mr Tim Fischer, first discussed the possibility of a dialogue with Iran on his visit to that country in 1999.²²
- 1.43 The first - and to date, only - talks (conducted at First Assistant Secretary level) were held in Tehran in December 2002.²³
- 1.44 The Australian delegation included representatives from DFAT, Attorney-General's Department, AusAID and HREOC.²⁴
- 1.45 The dialogue covered the following topics:
- international human rights issues;
 - respective constitutional, judicial and legal systems;
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20 Attachment 2, Submission no. 14, HREOC, p. 17

21 For details see Appendix A, Submission no. 17, DFAT, pp. 17-18 and Table 2, Submission no. 17, p 30.

22 Submission no. 17, DFAT, p.6

23 Submission no. 17, DFAT, p.6

24 Submission no. 17, DFAT, p.6

- the position of minorities;
 - freedom of expression; and
 - the role of national human rights institutions.²⁵
- 1.46 A list of the topics discussed at each dialogue session is provided in Appendix D of this report.
- 1.47 In 2003, following the first round of the dialogue, Australia funded a visit to HREOC by a delegation from the Islamic Human Rights Commission (IHRC) of Iran. Details of the study program and the organisations visited are provided in HREOC's submission to the inquiry.²⁶
- 1.48 There has been some other AusAID-funded bilateral human rights assistance to Iran via the HRSGS, namely:
- \$48, 266 of funding for projects that provide legal advocacy and support services to women and children.²⁷
- 1.49 Although Australia does not have a technical cooperation program in Iran, the possibility of establishing one in the future is not precluded. The DFAT submission stated that:
- “The visit enabled the IHRC to identify areas in which Australian expertise might usefully contribute to its priorities in promoting and protecting human rights.”²⁸

25 Submission no. 17, DFAT, p.6

26 Attachment 3, Submission no. 14, HREOC, pp. 29-44

27 For details see Table 2, Submission no. 17, DFAT, p. 31

28 Submission no. 17, DFAT, p.16

