

Parliamentary participation and oversight

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

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

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

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

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

Greater parliamentary participation

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

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

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

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

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

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

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

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

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

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

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

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

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

Increased involvement of the Human Rights Sub-Committee

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

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

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

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

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

Liaison with committee counterparts in other countries

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

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

- 3.18 Ms Dao recommended that this Sub-Committee liaise with its human rights committee counterparts in other countries, and other concerned parliamentarians around the world, in order to apply diplomatic pressure on Vietnam.²⁰ Ms Dao highlighted that Canada, Switzerland, Norway and New Zealand (collectively known as the 'Group of Four') 'has cooperated with regard to development and human rights issues in Vietnam since 2001, with a particular focus on ethnic minorities and religious groups.'²¹
- 3.19 Representatives from the Group of Four also 'make annual visits to provinces containing large ethnic minority communities, to observe and assess the 'grass-roots' situation on the ground, as part of the four embassies' ongoing dialogue with the Vietnamese Government on these issues.'²²

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

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

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

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

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

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

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

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

Committee Comment

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

Additional parliamentary involvement

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

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

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

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

up, but they are important symbolic gestures of solidarity and support for the oppressed people of Vietnam.’²⁷

3.26 In addition to inviting political prisoners to address Parliament, Ms Dao also recommended that each parliamentarian adopt a prisoner of conscience²⁸ in Vietnam which would involve regular correspondence with a prisoner of conscience and seeking regular updates about their condition at bilateral meetings.²⁹ Ms Dao also suggested that ‘Australian parliamentarians lend their signatures to petition letters demanding the release of all prisoners of conscience in high level talks.’³⁰

3.27 Ms Dao also recommended that:

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

Committee comment

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

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

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

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

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

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

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

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

Recommendation 4

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

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

Recommendation 5

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