



Submission No 26

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

Answers to Questions taken on Notice

Organisation: DEPARTMENT OF FOREIGN AFFAIRS AND TRADE

Question on Notice – Public Hearing, Tuesday, 1 November 2011

1. **Mr RUDDOCK:** The Amnesty group does not seem to work these days in the way in which it used to. The focus was on picking up all of the urgent action groups and making sure that the Australian government took them up. I am just asking whether that happens now. Is every urgent action brief from Amnesty in fact taken up by the Department of Foreign Affairs and actioned?

Mr Rowe: We take up all the names.

Mr RUDDOCK: I hear that. I am asking across the board. It used to be an activity in which we were engaged.

Ms Bird: We would have to get back to you on exactly how we respond to that.

Mr RUDDOCK: It may in fact, from what you are saying, have been far more productive than having dialogues.

Ms Bird: We will have to get back to you on exactly how those are handled. (p. 8)

DFAT receives Amnesty International's Urgent Actions and draws upon them in preparation for bilateral and multilateral discussions on human rights.

Questions on Notice – Public Hearing, Monday 5 March 2012

1. **Mr DANBY:** Can you cite one example where the foreign minister or the department has taken a major individual whose human rights have been abused in China ,Vietnam or Iran and publicly raised it?

Ms Stokes: I am sure there are many cases. I am not saying that this applies to every case because there are obviously many cases that get into the media spotlight, and it is important that the government says that they have raised it, including at high levels.

Mr DANBY: Could you come back to us with an answer to that question?

Ms Stokes: Yes. (p. 13)

The former Foreign Minister publicly raised a number of individual human-rights cases of concern during his speech to the Asia Society in New York on 13 January 2012, including Fang Lizhi, Liu Xiaobo and Ai Weiwei.

2. **SUBCOMMITTEE CHAIR:** Sometimes they have a more sensible, broad view of these issues than some of the diaspora. Could you provide us with a list of the NGOs the department has written to seeking their input on human rights dialogues; of those the department writes to, how many bother responding; and what percentage of the NGO suggestions are incorporated into the agenda?

Ms Stokes: I will have to take that on notice. (p. 15)

DFAT wrote to 26 NGOs seeking input into the 2011 Vietnam human rights dialogue and postponed China human rights dialogue (attached). DFAT received 7 written submissions in response. Wherever possible, DFAT draws on NGO submissions in its preparations for the human rights dialogues.

3. **Mr DANBY:** I end with just one specific question: do we have a policy of not visiting political prisoners in Vietnam? Is there anything that you know of—or, if you don't know of, can you find out—that prevents Department of Foreign Affairs and Trade officials meeting with the people that may be the subject of these dialogues? In my view it is impossible for you to make professional, rational reports about the status of these individuals if you have not visited them and got your own independent evaluation of their situation.

Ms Stokes: I do not know the answer to that. I will have to find out. I will take that on notice. (p. 16)

No, there is no such policy. Such visits have taken place. We note that any visit we undertake to individuals in prison or administrative detention can only be conducted with the agreement of the Vietnamese authorities.

4. **ACTING SUBCOMMITTEE CHAIR:** ...Have we raised with Vietnam the possibility of amending the penal code?

Ms Stokes: I would like to check what we raised in the UPR for Vietnam. I will take it on notice. (p. 27)

At Vietnam's Universal Periodic Review appearance at the Human Rights Council in 2009, Australia recommended Vietnam continue to work to ensure that key pieces of national

legislation, including the 1999 Penal Code and 2003 Criminal Procedures Code, are consistent with its international human rights treaty commitments.

NGOs DFAT wrote to in advance of the 8th Australia-Vietnam Human Rights Dialogue

1. Amnesty International Australia
2. Australian Council for International Development
3. Australian Forum of Human Rights Organisations
4. Human Rights Council of Australia
5. International Commission of Jurists
6. United Nations Association of Australia
7. Viet Tan

NGOs DFAT wrote to in advance of the 14th Australia-China Human Rights Dialogue

1. Amnesty International Australia
2. Asia-Pacific Forum of National Human Rights Institutions
3. Australian Baha'i Community
4. Australian Council for International Development
5. Australian Council of Trade Unions
6. Australian Forum of Human Rights Organisations
7. Australian Press Council
8. Australia Tibet Council
9. Falun Dafa
10. Federation of Ethnic Communities' Councils of Australia
11. Human Rights Council of Australia
12. International Commission of Jurists
13. Law Council of Australia
14. Media, Entertainment and Arts Alliance
15. National Committee on Human Rights Education
16. National Council of Women Australia
17. Sydney PEN
18. Christian Faith and Freedom
19. United Nations Association of Australia

Department of Foreign Affairs and Trade – Additional Question on Notice

1. Can you please cite several examples where the foreign minister, or the Department of Foreign Affairs and Trade, has taken an individual whose human rights have been abused in China and publicly raised it?

The former Foreign Minister, The Hon Kevin Rudd MP, publicly raised a number of individual human-rights cases of concern during his speech to the Asia Society in New York on 13 January 2012, including Fang Lizhi, Liu Xiaobo and Ai Weiwei. He also raised Liu Xiaobo's case on ABC Radio's 'PM' program on 11 October 2010 and during an interview at the Hong Kong Jockey Club in Beijing on 3 November 2010. Department of Foreign Affairs and Trade Deputy Secretary Heather Smith raised Liu Xiaobo's case during a joint press conference following the 13th Australia-China Human Rights Dialogue in Beijing on 20 December 2010.

2. Can you please cite several examples where the foreign minister, or the Department of Foreign Affairs and Trade, has taken an individual whose human rights have been abused in Vietnam and publicly raised it?

We are not aware of any examples that have been publicly raised.

3. Can you please cite several examples where the foreign minister, or the Department of Foreign Affairs and Trade, has taken an individual whose human rights have been abused in Iran and publicly raised it?

On 12 March 2012, Australia's Permanent Representative to the United Nations, Geneva, raised the case of Mr Youcef Nadarkhani, who has been sentenced to death for apostasy, in the Human Rights Council. In October 2011, the then Foreign Minister's Office released a statement following reports Iranian actress Marzieh Vafamehr had been sentenced to one year in jail and 90 lashes for her role in an Australian-produced film. On 17 September 2010, Australia's Permanent Representative also raised concern about the death sentence of Sakineh Mohammadi Ashtiani in the Human Rights Council.

4. Can you please provide us with a list of organisations (including Commonwealth Departments, statutory authorities, non-governmental organisations, ethnic communities, and individuals) that the Department has written to seeking their input on every human rights dialogue held to date?
 - Can you please provide a separate list for every dialogue held to date with China, Vietnam and Iran?
 - Of those the Department writes to, how many of the organisations listed above provided a response to each request?
 - What percentage of the organisations suggestions are incorporated into each dialogue agenda?

DFAT routinely consults with the following Commonwealth Departments and statutory authorities in preparing for each of the Human Rights Dialogues:

Attorney-General's Department
Australian Human Rights Commission
Australian Agency for International Development (AusAID)
Department of Immigration & Citizenship (DIAC)
Department of Family, Housing, Community Services & Indigenous Affairs
(FaCHSIA)
Department of Education, Employment & Workplace Relations (DEEWR)

The following lists provide information on the Non-Government Organisations DFAT has written to inviting submissions in advance of Human Rights Dialogues with China and Vietnam since 2009, including details of submissions received. Due to the diversion of resources that would be involved, DFAT is not in a position to provide details of records relating to Human Rights Dialogues prior to 2009 (including the last Human Rights Dialogue held with Iran in 2002):

9th Australia-Vietnam Human Rights Dialogue (2012) and 14th Australia-China Human Rights Dialogue (2012) (also including 3rd Australia-Laos Human Rights Dialogue)

Australian Council of Trade Unions*
Alliance for Democracy in Laos
Amnesty International Australia
Asia Pacific Forum of National Human Rights Institutions
Australian Baha'i Community*
Australian Catholic Social Justice Council
Australian Council for Human Rights Education*
Australia Council for International Development*
Australian Forum of Human Rights Organisations
Australian Lawyers for Human Rights
Australian Press Council
Australian Red Cross
Australia Tibet Council*
Christian Faith and Freedom
Civil Liberties Australia
Falun Dafa
Federation of Ethnic Communities' Council of Australia
Human Rights Council of Australia
Human Rights Law Centre
International Committee of Jurists Australia
Khmer Krom Representative of Khmer Krom in Asia Pacific*
Law Council of Australia*
Media, Entertainment and Arts Alliance*
Medecins Sans Frontieres Australia
National Committee on Human Rights Education Invitation
National Council of Women Australia
Oxfam Australia
Public Interest Advocacy Centre
Quaker Service Australia
Sydney PEN
United Nations Association of Australia
Uniting Justice Australia
Viet Tan*

* denotes submission received

11 submissions have been received to date (including submissions from Human Rights Watch and an individual).

8th Australia-Vietnam Human Rights Dialogue (2011)

Amnesty International Australia
Australian Council for International Development
Australian Forum of Human Rights Organisations
Human Rights Council of Australia
International Commission of Jurists
United Nations Association of Australia
Viet Tan*

* denotes submission received

Two submissions were received (including one from Human Rights Watch).

13th Australia-China Human Rights Dialogue (2010)

Amnesty International Australia*
Asia Pacific Forum of National Human Rights Institutions
Australia Tibet Council*
Australian Baha'i Community
Australian Council for International Development
Australian Council of Trade Unions
Australian Press Council
Falun Dafa Association of New South Wales*
Federation of Ethnic Communities Councils of Australia
Human Rights Council of Australia
International Commission of Jurists
Law Council of Australia
Media, Entertainment & Arts Alliance*
National Committee on Human Rights Education
Sydney PEN*
Tears of the Oppressed / Christian Faith & Freedom*
United National Association of Australia

* denotes submission received

Six submissions were received.

7th Australia-Vietnam Human Rights Dialogue (2009)

Australian Forum of Human Rights Organisations (requesting the Forum to distribute the notice to interested NGOs)

Four submissions were received from the following NGOs:

Australian Council for International Development
Human Rights Council of Australia

Human Rights Watch
International Commission of Jurists Australia

12th Australia-China Human Rights Dialogue (2009)

Australian Baha'i Community
Australian Council of Trade Unions*
Australia Tibet Council*
Amnesty International Australia*
Asia-Pacific Forum of National Human Rights Institutions
Australian Council for International Development*
Australian Forum for Human Rights Organisations
Australian Press Council
Falun Dafa Association of New South Wales*
Federation of Ethnic Communities' Councils of Australia
Human Rights Council of Australia
International Commission of Jurists*
Law Council of Australia*
Media, Entertainment & Arts Alliance*
National Centre on Human Rights Education
National Council of Women Australia*
Sydney PEN*
Tears of the Oppressed / Christian Faith & Freedom*
United Nations Association of Australia*

* denotes submission received

12 submissions were received.

The development of the agendas for the dialogues is an interactive process between the Australian Government and our dialogue partners. The input provided by NGOs is a critical element in shaping the issues raised by Australian delegations in the Dialogues. Cases of concern raised by NGOs are consistently raised in the Dialogues.

For example, in 2009, an NGO recommended that the Australian delegation raise with Vietnam a number of matters including freedom of religion, religious prisoners and freedom of association. The NGO provided the Department with a list of specific concerns relating to these matters, including the legal status of and certain registration requirements for religious groups. During the dialogues the Australian delegation raised the importance of freedoms of association, expression, assembly and religion with Vietnam and a number of the NGO's specific concerns.

Similarly, two NGOs recommended that Australia raise with Vietnam its progress towards ratifying the Convention Against Torture (CAT). During the dialogue, the Australian delegation raised Vietnam's progress in ratifying the CAT.