



Submission No 2

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

Name: Ms Quynh Dao

Organisation: Author and member of Amnesty International
Australia

SUBMISSION TO PARLIAMENT OF AUSTRALIA
HUMAN RIGHTS SUB COMMITTEE
RE: HUMAN RIGHTS SITUATION IN VIETNAM

By Quynh Dao (Ms)

Author and member of Amnesty International Australia

27/07/2011

PREAMBLE

This submission mainly addresses the following terms of reference for the inquiry into Australia's human rights ('HR') dialogues with China and Vietnam, as set out by the Parliament of Australia Human Rights sub committee ('the committee'):

- The monitoring and evaluation of outcomes including an assessment of whether any human rights reforms within those countries have been obtained;
- Exploring options for alternative human rights mechanism.

This submission focuses on Vietnam. There are four main parts, with self-explanatory headings. (see Table of Content). As a result, an executive summary is deemed not necessary.

The appendices provide further details or background information on the points made in the submission.

Vietnamese sources are translated into English by the author of this submission.

TABLE OF CONTENT

1	General observation about Australia's effort in improving human rights situation in Vietnam to date through the dialogue process and other programs	p 1
2	Vietnam's current political situation	p 3
3	Assessment about the current human rights situation in Vietnam by international human rights organisations	p 6
4	Proposed actions to improve human rights situation in Vietnam	p 8

1 GENERAL OBSERVATION ABOUT AUSTRALIA'S EFFORT IN IMPROVING HUMAN RIGHTS SITUATION IN VIETNAM TO DATE THROUGH THE DIALOGUE PROCESS AND OTHER PROGRAMS

While the media release heading 'Human rights talks in the spotlight' issued on 23 June 2011 by the committee mentions that Australia human rights dialogue process is now 'well-established' with eight rounds of talks with Vietnam since 1997, the content and outcome of these talks do not seem to have been well publicised to the media and as a result do not seem to attract media or public attention.

AusAid, Australia's peak foreign aid agency, lists 'Human Rights' as one of its 'aid themes' (see AusAid's website <http://www.ausaid.gov.au/keyaid/humanrights.cfm>).

The only program under the HR theme seems to be the Human Rights Grant Scheme ('HRGS'). Under this scheme:

For 2010-2011, Vietnam is not included.

For 2009-2010, Vietnam was not included.

For 2008-2009, Vietnam was included in the list of countries receiving funding, and the total amount received was \$60,000, for a project to train the police to have 'good practice' in detaining, questioning and protecting children having troubles with the law. As far as the author of this report is aware, this issue has never been raised as an issue of concern in any report from any international HR organisations.

As far as children's rights are concerned, the issue of children being forced into prostitution seems to be much more serious and pressing (see Appendix 3 for the plight of children in Vietnam).

A project on 'good practice' by the police in dealing with detained HR activists, who are often brutalised and even tortured, deserves top priority, especially in view of a recent disturbing development about the situation of blogger

, his whereabouts since that date are not

known. His family has not been allowed to visit him nor sent food parcels to him, and is still kept in the dark as to what has happened to him since the day that he was supposed to be released.

. It was unclear
and whether is dead or still alive. As an
outspoken critic of the government's oppression, has been subject to brutal treatment
from the security police. In the interview, repeated what
of Ho Chi Minh City Security Police had said to her husband: 'I will bash you until
you are so disfigured that even your doctor can't recognise you, and your lawyer can't find you. I
will drive you to the ground so you will die of exhaustion. I will strip you of your manly ability.'
(See Appendix 5 for treatment of prisoners of conscience ('POC') by communist authorities)

Concerns regarding serious abuse of basic human rights such as the right to free speech, freedom of the press, freedom of information, freedom of opinion, freedom of association and brutal treatment of those advocating those rights have been raised repeatedly in the past many years by International HR organisations (see Part 3 of this report).

While our leaders do address the HR situation in China at high profile and highly publicised official functions, and such address is often relayed in the media, the HR dialogues with Vietnam seem to be a quiet and low key affair and do not get any media attention. Until the Secrecy scandal, the issues of rampant corruption and abuse of HR in Vietnam receive almost no coverage by the Australian media, neither have they been addressed by any Australian political leader in public forums.

Given the fact that from 2008 to 2011, Australia has spent only \$60,000 for a project that came specifically under the HRGS in Vietnam, and if aid specifically for human rights purposes is not to be confused with other types of aid for other purposes such as to reduce poverty, it seems fair to conclude that Australia's effort to further the cause of HR in Vietnam to date is negligible.

It is noted that for 2010-2011, Australia provides funding for Cambodia Centre for Human Rights for a project to:

promote and protect the rights of human rights defenders: providing protection to those under threat, including the threat of physical violence, judicial intimidation, and seeking positive change in government policies and agencies towards defenders. (See AusAid website [List of Human Rights Grants Scheme projects 2010–11](#))

It is believed that this is also the very kind of assistance that the Australian government should provide for Vietnam if it wants to further the cause of HR in this country.

Australia's view about the political situation in Vietnam (see AusAid information about Vietnam <http://www.ausaid.gov.au/country/country.cfm?CountryID=33&Region=EastAsia>) under the heading 'Development context / Political and Economic') is as follows:

*No significant change to Vietnam's political system is foreseen, with the Communist Party maintaining a single party state. **This does not mean, however, that Vietnam's governance is unchanging. Governance reforms in Vietnam are clearly underway, driven by economic reform and a desire to maintain social stability.***[bold highlight added]

This view does not seem to be supported by the facts regarding the country's current political situation (see part 2 of this report). International HR organisations' latest reports tell of more virulent political repression in Vietnam and detect no governance reforms (see Part 3 of this report).

Any effort on the part of the Australian government to improve the HR situation in Vietnam can only be effective if it is based on a correct understanding of the country's political situation. A lack of understanding can lead to ineffective plans of action, with resources being directed to the wrong target. The AusAid funded only one HR project under the HRGS from 2008 to date for Vietnam, and that was to train the police on how to deal with children, seems to be a case in point.

2 VIETNAM'S CURRENT POLITICAL SITUATION

In a country that has been subject to a brutal communist dictatorship for decades, and those who dare to speak out face arrest, imprisonment and persecution, the growing public protests in

Vietnam in recent times tell of a people that are increasingly frustrated and more willing to risk their own safety to express their dissatisfaction against a government that does not represent them democratically, that abuses them instead of protecting them, that is seen as kow-towing to Beijing and betraying its own people in order to preserve the status quo of the privileged few in the Party elite.

Dissidents come from all walks of life, including former Party members, lawyers, doctors, students, journalists, religious leaders and followers, ethnic groups, workers, labourers, bloggers, and those whose lands have been taken from them by corrupt officials. Besides the more prominent HR advocates (see Appendices 1 and 2), more and more ordinary people are taking the risk to speak out to overseas media.

Voice of America talked to
who was expelled from for engaging in activities deemed
illegal, which include reading articles in the net about the imprisonment of lawyer and HR
activist , the grievance of the people from Vinh province (North Vietnam) whose
land had been taken away from them by corrupt Party cadres, and a strike by workers from a
factory in Hanoi against unfair conditions. said:

‘[Democracy] is among basic human rights. I want to exercise my right... I went to vote for the [communist] parliament election in 2006 and it was a total farce. People went to the polling booth but they did not know whom they voted for... I realise that my engaging

in pro-democracy activities will bring me [danger] and difficulty, but I won't stop because I want to live in a free and more equal society.'

VOA reports that many people openly supported _____, including Hanoi –based business owner _____, sympathising with _____ plight, offered him a job. _____ said to

VOA:

'We need people who speak out against injustice so that society can improve. I admire the young people who dare to think and act... There are so much injustice and many burning grievances because of the [damages] wrecked on this nation by the communist system, no one accepts it... It is unacceptable to persecute and destroy the future of this fine young man who only has goodwill and good intention to bring democracy to this nation.'

wrote:

'Because this [Vietnamese communist] government is not democratically elected by the people, it does not reflect the will of the people. It's the Party that elects [parliament representatives], the people only get to go to the polling booth. The Patriotic Front, the Party's right arm, nominates those who can be elected into parliament... Who will win and who will lose [the election] have all been decided by the Party well before the people cast their votes! ...Those who are not favoured by the Party to be Parliament representatives but dare to nominate themselves to spoil the game of democracy that the Party plays... like lawyer _____ and scientist _____, are subject to blatant, shameless and savage public denunciation.'

So if Australia holds the view that governance reforms in Vietnam are under way (see second last paragraph of Part 1), this view is not based on facts.

How to effectively further the cause of HR rights in Vietnam may depend on Australia's decision:

- 1) to continue to give away Australian taxpayers' money to strengthen a government that put the interest of the Communist Party and its members ahead of the nation and the people, that has lost the support of its people, that is corrupt and brutal towards its own people but powerless and cowardly in the face of China's aggression (see Appendix 4 for

a list of Vietnam land and sea territories that Hanoi had ceded to China either by giving it away under request or by acts of aggression from China); or,

- 2) together with the US and other democratic countries in the world, seize Hanoi's current vulnerability being caught between China's increased aggression and the growing unrest and hostility against the government (see Appendix 4 for background information), throw it a lifeline by helping it counter the pressure from China but, in return, demanding true democratic reforms, the release of all prisoners of conscience, supporting HR advocates and the non-government sectors towards a push for democracy and social equality so that Vietnam will have the chance to become a bastion of democracy and not an extension of China in Southeast Asia.

The second alternative is also recommended by writer

Thanks to international pressure
has recently been released from prison and is currently living in political
exile in the US.

3 ASSESSMENT ABOUT THE CURRENT HUMAN RIGHTS SITUATION IN VIETNAM BY INTERNATIONAL HUMAN RIGHTS ORGANISATIONS

The general assessment of the human rights ('HR') situation in Vietnam by international HR organisations as at 2011 remains bleak, if not damning.

According to Amnesty International annual report 2011 on Vietnam (Introduction paragraph):

Freedom of expression, association and assembly remained severely restricted [Provisions of the national security section of the 1999 Penal Code, including Article 79 ("Carrying out activities aimed at overthrowing the people's administration") were used to criminalize peaceful political and social dissent]. New regulations on internet monitoring were introduced. Harsh repression of peaceful dissidents and human rights activists continued. The authorities increasingly used the charge of attempting to "overthrow" the state against peaceful dissidents. Prisoners of conscience were sentenced to long prison terms after unfair trials. Dissidents were arrested and held in lengthy pre-

trial detention, and others under house arrest. Members of some religious groups were harassed and ill-treated. At least 34 people were sentenced to death, but secrecy was maintained over the application of the death penalty.

According to Human Rights Watch annual report 2011 on Vietnam (Introduction paragraph):

The Vietnamese government tightened controls on freedom of expression during 2010, harassing, arresting, and jailing dozens of writers, political activists, and other peaceful critics.

Cyber-attacks originating from Vietnam-based servers disabled dissident websites and the government introduced new restrictions on public internet shops while continuing to restrict access to numerous overseas websites.

Public protests over evictions, confiscation of church properties, and police brutality were met at times with excessive use of force by police. Police routinely tortured suspects in custody.

Vietnam, which served as the chair of the Association of Southeast Asian Nations (ASEAN) in 2010, demonstrated little respect for core principles in the Association of Southeast Asian Nations (ASEAN) Charter to "strengthen democracy" and "protect and promote human rights and fundamental freedoms."

According to United States Commission on International Religious Freedom ('USCIRF') 's annual report 2011:

Vietnam's overall human rights record remains poor, and has deteriorated since Vietnam joined the World Trade Organization in January 2007. Vietnam is an authoritarian state ruled by the Communist Party. Over the past four years, the government has moved decisively to repress any perceived challenges to its authority, tightening controls on freedom of expression, association, and assembly. New decrees were issued prohibiting peaceful protest in property disputes, limiting speech on the Internet, and tightening

controls on journalists and access to the internet at cafes. Numerous legal and political reform advocates, free speech activists, human rights defenders, labor unionists, land rights petitioners, journalists, bloggers, independent religious leaders, and religious freedom advocates were arrested, placed under home detention or surveillance, threatened, intimidated, and harassed. (Paragraph heading ‘Overall Human Rights / Religious Freedom Situation’)

USCIRF again recommends that Vietnam be designated as a “country of particular concern”, or CPC, in 2011. (Paragraph heading ‘Findings’)

According to Reporters Without Borders, Vietnam is among the fifteen lowest-ranked countries of the 2010 World Press Freedom Index; Vietnam’s Communist Party’s open season against freedom of speech is responsible for this dismal ranking.

Please note that the government maintains an uncompromising stand against prisoners of conscience. Over 17,000 prisoners were released under a large- scale amnesty program to mark National Day on 2 September 2010, none was prisoner of conscience (‘POC’).

4 PROPOSED ACTIONS TO IMPROVE HUMAN RIGHTS SITUATION IN VIETNAM

Actions proposed by USCIRF to the US Congress in relation to Vietnam that could be similarly considered by the committee includes (some items have been modified or added by the author of this report):

- 1) Ensure that any funds appropriated or allocated to expand bilateral economic or security relations are met with corresponding funding for new projects that focus on furthering human rights, workers’ rights, civil society capacity-building, noncommercial rule-of-law programs in Vietnam or incorporate these values in funding terms and conditions. Please note USCIRF’s suggestion to create a pilot program for Vietnam as an Asian counterpart to Supporting Eastern European Democracy (SEED) program [This was an US government initiative. The primary goal of the SEED Act of 1989 was to promote democratic and free market transitions in the former communist countries of Central and

Eastern Europe, enabling them to overcome their past and become reliable, productive members of the Euro-Atlantic community of Western democracies].

- 2) Continue oversight, establish benchmarks, measure progress of the Australia-Vietnam Human Rights Dialogues and publicise these more widely and effectively. Engage the Australian media and invite them to attend and report on this process. Invite the Australian media to request Vietnamese representatives to give them access to dissidents in these dialogue sessions.
- 3) Ongoing aid and training programs at grassroots level for Vietnamese workers and women that include rule-of-law training, basic freedoms, human rights and workers rights concepts, civil and civilised society concepts and development. Aid should aim to go to independent unions who truly represent the workers, and not to state-sponsored unions. Engage Australian unions in helping their fellow independent unionists in Vietnam demanding fairer work conditions.
- 4) Ensure that rule-of-law programs include regular exchanges between international experts on religion and law and appropriate Vietnamese representatives in these fields – not necessarily those who are approved by the Vietnamese government. Invite opinion or submission of discussion papers from independent law experts, academia and religious leaders, including those currently in jail or under surveillance, such as

, ... to discuss the impact of Vietnam's laws and decrees on religious freedom and other human rights; train public security forces on these issues, and discuss ways to incorporate international standards of human rights in Vietnamese laws and regulations;
- 5) Work to improve the capacity and skills of Vietnamese civil society organizations, by providing finance as part of Australian foreign aid program to medical, educational, development, relief, youth, and charitable organizations run by religious organizations, private individuals and NGO's; direct aid money to local or international organisations combating child prostitution and human trafficking (please see Appendix 3 for the plight of children in Vietnam); aid should be diverted away from government (often highly corrupt) institutions.

- 6) Offer grants, scholarships, fellowship residency to individuals and scholars whose work promotes understanding of religious freedom and related human rights and who are currently facing government persecution for their work in these fields.
- 7) AusAid's current scholarship program can allocate placements for Vietnamese high school – age students to attend school in Australia; AusAid should aim to select youth from disadvantaged and marginalised groups such as from ethnic minority group areas (Montagnard and Hmong), from minority religious communities (Cao Dai, Hoa Hao, Catholic, Protestant, Cham Islamic, and Khmer Buddhists) [these groups have been subject to government harassment and intimidation] and from orphanages. Selection should be by religious or charitable organisations and not from government channels which may favour children from the privileged government elite. Also offer these scholarships to children of dissidents at school age (such as the young children of
who, as a result of their father's activities, would be blacklisted and discriminated against) to attend school in Australia.
- 8) Work with international corporations seeking new investments in Vietnam to promote international human rights standards in the country and find ways to ensure that their corporate presence can provide a model as to what industrial relations should entail in a civilised society, help promote and protect human rights in the work place [such as labourers's rights and the right to join independent unions to demand fair wages and fair treatment for workers];
- 9) Investment or lending programs can incorporate human rights conditions as a bargain chip, such as more favorable terms if certain HR benchmarks are achieved or a POC is released –

- 10) Expand funding for Radio Australia programming for Vietnam, encouraging free exchange of opinions from Vietnamese listeners, including programs which promote rule-of-law concepts, basic freedoms and human rights concepts, civil and civilised society concepts and development. Ensure the program is not subject to jamming.
- 11) To involve or seek suggestions from HR organisations such as Amnesty International, Human Rights Watch, Reporters Without Borders and HR advocates within the Vietnamese-Australian community in the drafting of agenda items for the HR dialogues sessions.

USCIRF's proposed actions in relation to Vietnam are encompassing, comprehensive, practical and important. Please click on the following link for the full list of proposals:

<http://namvietnews.wordpress.com/2011/04/30/uscirf-2011-annual-report-on-vietnam/>

Other actions proposed by HR organisations or author of this report:

- 1) Call on the release of all prisoners of conscience.
- 2) Call on humane treatment of prisoners of conscience (see appendix 5 about the inhumane communist prison system).
- 3) Call on lenient treatment of dissidents who are elderly or suffer serious illness such as

- 4) To offer medical treatment in Australia for dissidents with severe illness, such as _____, who has been rearrested on _____. He has not completely recovered from his stroke, and, having recently been diagnosed with a brain tumour, the harsh prison condition may prove fatal for him this time.
- 5) Invite prominent HR advocates, including those still in prison or under house arrest, to visit Australia to address the Australian parliament and universities to increase understanding and broaden support for the HR cause in Vietnam. An example was elderly (now deceased) dissident _____

in _____.

These invitations may not be taken up, but they are important symbolic gestures of solidarity and support for the oppressed people of Vietnam,

- 6) Australian government HR sub committee to maintain an up to date list of all POC and dissidents. Representatives of the HR sub committee to write letters to POC and dissidents or request visits to POC and dissidents; each parliamentarian can adopt a POC, which involves letter writing to the 'adopted' POC on a regular basis and demanding regular update about that person's condition at bilateral meetings, including in HR dialogues sessions. See Appendices 1 and 2 for the list of prominent POC and dissidents known to date.
- 7) Australian parliamentarians to lend their signatures to petition letters demanding the release of all POC in high level talks. It is through this action from 19 dedicated members of the US Congress that novelist _____ has been released recently and was offered political asylum in the US. This proves that international pressure does bear result and can save the lives of POC (see Appendix 6 for success HR stories thanks to international pressure).
- 8) Australia to also offer political asylum to select HR advocates and persecuted intellectuals facing grave danger to their lives.

- 9) Australia Parliament Human Rights sub-committee to liaise with HR committees and concerned parliamentarians of other democratic countries for concerted efforts in applying diplomatic pressure on Vietnam to adopt civilised behaviour and practice towards its people.
- 10) Australian government HR sub committee to raise its profile by holding press conference and provide the media with its annual report about its findings about HR situation in Vietnam, and any progress made from its initiatives and programs such as the Human Rights Small Grants program; it is proposed that the committee be more outspoken and forthright in raising its concern about HR in Vietnam in national and international forums. The communists had been falsely depicted as heroes during the Vietnam War in Western media due to misinformation and ignorance. Rectifying this falsehood and revealing the extent of HR abuse in Vietnam is important in order to gain public and media support.
- 11) Australian government HR sub committee to 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 HR awards. See Appendix 2 for the list of human rights advocates who have been nominated / received HR awards.
- 12) Australian government to bestow an annual HR award to select HR advocates from Vietnam, and possibly from other parts of the world as well. France has this award (Prix des Droits de l'Homme de la Republique Francaise) which carries monetary value, to be shared between HR advocates chosen from around the world each year.
- 13) The author of this report welcomes Foreign Minister Kevin Rudd's recent decision to overhaul of Australia's foreign aid program, promising more transparency and the phasing out of direct aid to India and China. This policy should also extend to Vietnam for the reason that the country's systemic corruption and lack of government transparency do not provide assurance that aid money through government channels reaches its targets and fulfils its intention.

According to Transparency International's 2010 annual report, while Australia proudly ranks among the cleanest countries in the world in the Corruption Perception Index, Vietnam ranks 116 out of 178 countries, scoring 2.7 where a score of 1 is highly corrupt and 10 is clean.

The Securrency bank notes scandal reveals corruption at the highest level in Vietnam

, there has been no known report of any punishment in the court of law in Vietnam towards those involved in the Securrency scandal. It can be surmised that without international media, this scandal would remain brushed under the carpet by Vietnamese authorities.

Announcement from Vietnamese Prime Minister Nguyen Tan Dung to retire

suggests that the Vietnamese government is highly sensitive and responsive to international media and international pressure. It has no respect for the rule of law in its own country, but wants acceptance from the civilised global community.

- 14) Aid programs to reduce poverty such as the Microcredit program should be administered by religious organizations, private individuals or NGO's and not by government agencies. Microcredit program should also try, if possible, to reach out to HR advocates and labourers who belong to independent unions as these people are considered 'outlaws', banished from society and have no means to support themselves and their families. These people are the country's conscience, whose only sin is to want to build a more civilised society which respects freedoms and human decency. They need financial, as well as moral help. While providing financial support to these people can be a sensitive issue, if help is given to them via charity or religious organisations, this would be of humanitarian character and not political in nature.