

## CHAPTER FOUR

### AUSTRALIA'S HUMAN RIGHTS ACTIVITY IN THE REGION

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#### Human rights activities with individual regional countries

4.1 In this chapter, Australia's human rights activities with some countries in the region are discussed, in terms of bilateral and multilateral arrangements, as well as development assistance. As the focus of this inquiry is dialogue on human rights, only a brief summary of the human rights situation in the countries is included, so as to put evidence and analysis in respect of the dialogue into context. The Committee did not receive evidence in respect of all countries in the region and has generally confined its comments to those countries which were the subject of evidence.

#### Afghanistan

4.2 Afghanistan has no central government, no constitution, rule of law, or independent judiciary, and more than 2.4 million Afghans have sought refuge outside the country.<sup>1</sup> The Department of Foreign Affairs and Trade (DFAT) assessment of the human rights situation in Afghanistan is that it is 'generally appalling'. DFAT noted the adverse effect on human rights of women and girls of the Taliban interpretation of Sharia law, which has aroused considerable international concern and condemnation. Delivery of aid is a problem for humanitarian agencies because of the Taliban policies. Bilateral human rights dialogue with the Taliban is difficult because of the lack of Australian representation in Afghanistan.<sup>2</sup>

4.3 The situation is monitored by the Australian High Commission in Islamabad which has, on occasion, conveyed Australia's concerns about human rights abuses in Afghanistan (such as stonings, executions and restrictions on the rights of women and girls) to the Afghan Ambassador in Islamabad.<sup>3</sup>

4.4 In terms of multilateral activity, the Australian government supports the United Nations, including the work of the UN Special Rapporteur on human rights in Afghanistan.<sup>4</sup> DFAT reported Australia had contributed to efforts of the Commission on Human Rights and the Third Committee of the UN General Assembly: Australia has been involved in the UN's human rights dialogue in Afghanistan through the Coordinator for Humanitarian Assistance for Afghanistan (at the 1997 Ashgabad Conference on Assistance to Afghanistan, and in subsequent direct talks between the UN and Taliban authorities).<sup>5</sup>

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1 Bureau of Democracy, Human Rights, and Labour, US Department of State, *Afghanistan Country Report on Human Rights Practices for 1997*, 30 January 1998, p. 1.

2 DFAT/AusAID, Submission, pp. 817-818.

3 *ibid.*, p. 818.

4 *ibid.*

5 *ibid.*

4.5 In April 1998, the UN Commission on Human Rights expressed concern over the ongoing deterioration of the human rights situation in Afghanistan, citing violations of the rights of women, among other things. The Commission noted also the intensification of armed hostilities had resulted in extensive human suffering and forced displacement of millions of Afghans. It condemned frequent arbitrary arrest and detention and summary trials which had resulted in summary executions. A resolution was adopted without a vote.<sup>6</sup>

4.6 Australian aid to Afghanistan is provided through the UN and NGOs, and Australian-sponsored projects are in accord with agreed UN principles (women and girls participate in and benefit from aid projects). Australia's focus has been on education, health and water supply and sanitation. \$4.5 million in emergency assistance had been allocated to Afghanistan by Australia in 1997-98. This is for food aid, development and delivery of anti-personnel landmine awareness training programs, health care and water supply. In 1996-97, Australia contributed \$500,000 to the Mine Action Program in Afghanistan—towards training in safety procedures in mined areas before they are cleared.<sup>7</sup>

## Bangladesh

4.7 Reported human rights abuses in Bangladesh cover a number of areas. Many relate to the Chittagong Hill Tracts where there has been armed conflict between the Jumma people and the Bangladesh military forces.<sup>8</sup> The army and paramilitary forces are responsible for security in the Chittagong Hill Tracts. In December 1997, an accord was signed to end the insurgency.<sup>9</sup> Other human rights problems occur in respect of refugees and child labour.

4.8 While there were no reports of disappearances during 1997, the Awami League Government continued to use national security legislation to detain people, without formal charges or specific complaints being filed; up until September 1997, more than 3,498 persons had been detained under this legislation.<sup>10</sup> The government usually allows human rights groups to conduct activities such as publication of reports, press conferences and appeals to the government on special cases, although Amnesty International has been refused registration under the Societies Registration Act, and so cannot receive funds from abroad. The government is reportedly open to dialogue with international organisations and diplomatic missions, but has put pressure on individual human rights advocates and some NGOs.<sup>11</sup>

4.9 Dialogue has been developed by the Australian High Commission in Dhaka with Bangladesh authorities on human rights issues such as exploitative child labour and children's rights generally, the human rights of women, and the minorities in the Chittagong Hill Tracts. The High Commission also makes representations on individual human rights cases.<sup>12</sup>

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6 Resolution E/CN.4/1998/L.91, United Nations Human Rights Commission, Press Release, 21 April 1998.

7 DFAT/AusAID, Submission, p. 818.

8 *ibid.*

9 Bureau of Democracy, Human Rights, and Labor, US Department of State, *Bangladesh Country Report on Human Rights Practices for 1997*, 30 January 1998, p. 1.

10 *ibid.*, p. 4.

11 *ibid.*, pp. 10-11.

12 DFAT/AusAID, Submission, p. 819.

4.10 DFAT reported that during the Asia Pacific Workshop for Human Rights Educators in Sydney in 1996, Bangladesh expressed interest and the Australian High Commission in Dhaka and HREOC have had discussions with officials on the establishment of a national human rights institution. As a result, the Minister for Law, Justice and Parliamentary Affairs visited Australia in October 1997.<sup>13</sup>

4.11 Human rights dialogue was also said to be advanced by exchange visits by parliamentarians, senior officials and lawyers. An Australian Bar Association delegation visited Bangladesh in 1996 and conducted seminars and workshops for young lawyers. In 1997, a parliamentary delegation from Bangladesh visited Australia, as did the Chief Justice.<sup>14</sup>

4.12 AusAID has directed funds aimed at: developing community organisation and capacity building (including educational opportunities and cooperatives), assisting local NGOs to support children's services and to providing training in HIV/AIDS education and training.<sup>15</sup>

## Burma

4.13 Burma has been under authoritarian rule for more than 35 years. In November 1997, the military government known as the State Law and Order Restoration Council (SLORC) announced the military government was to be known as the State Peace and Development Council (SPDC). General Than Shwe still heads the regime, but 14 of the 21 generals who had made up SLORC have been removed, and are reported to be under 'virtual house arrest'. These changes have been described as 'a silent coup' with a new group of younger officers now in control, in particular, Khin Nyunt. Daw Aung San Suu Kyi is reported to have said that the changes in military leadership have made no improvement to human rights in Burma. She may have become more isolated as a result of the new leaders' apprehension of approximately 250 intellectuals.<sup>16</sup>

4.14 Human rights in Burma have been severely repressed for many years under the military. In 1995, in its report *Human Rights and Progress Towards Democracy in Burma*, this Committee urged countries in the region to use their good offices to encourage the government of Burma towards democracy, particularly as Burma was seeking membership of ASEAN.<sup>17</sup>

4.15 The improvement of human rights is central to Australia's relations with Burma. Government-to-government development assistance has been suspended and there is a ban on defence exports. Australia's policy is neither to encourage nor discourage trade and investment between Australian businesses and Burma.<sup>18</sup> Trade with Burma is, in any case, very small.

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13 *ibid.*

14 *ibid.*

15 AusAID, 'Summary of Current AusAID Activities Addressing Good Governance and Human Rights in the Asia-Pacific Region', November 1997, Exhibit 12.

16 Lintner, Bertil, 'Velvet Glove', *Far Eastern Economic Review*, 7 May 1998, p. 18.

17 Joint Standing Committee on Foreign Affairs, Defence and Trade, *A Report on Human Rights and the Lack of Progress Towards Democracy in Burma (Myanmar)*, October 1995, p. 86.

18 DFAT/AusAid, Submission, pp. 819-820 and 887.

4.16 The All Burma Students' Democratic Front considered that the main problems facing Burma were the lack of democracy and fundamental human rights, and the lack of self-determination for ethnic nationalities. It seeks the establishment of a Federal Union of Burma as a key to peace for all the people of Burma.<sup>19</sup> The Front stated that in the twelve months to September 1997, political, economic and social conditions had seriously deteriorated and it gave instances of offences against pro-democratic forces. The admission of Burma to ASEAN in 1997 was condemned by the Front. It considered that the 'constructive engagement' policy towards SLORC had not helped Burma towards democracy, and this policy should be replaced with 'constructive intervention', towards a dialogue with democratic forces led by Suu Kyi, and eventually to national reconciliation.<sup>20</sup>

4.17 Australia's Foreign Minister has repeatedly called on the Burmese government to open a genuine process leading to political reform. This would include the military, leaders of political parties which were represented in the 1990 election (the results of which were not implemented) and representatives of ethnic minorities. At the ASEAN Regional Forum in 1996 the Minister put his concerns about human rights, democracy and political detainees to his Burmese counterpart. The Minister also reported an Australian proposal for discussion of Burma's human rights record during the formal session of the ARF was successful.<sup>21</sup>

4.18 In 1997 at the UN General Assembly in October and the ASEAN meeting in July, the Minister raised human rights issues with the Burmese Foreign Minister and urged contact with the National League for Democracy (NLD).<sup>22</sup> The Australian Embassy in Rangoon has made frequent representations to the authorities over human rights, such as the detention of more than 200 NLD members and other activists since May 1996, and attacks on the Karen on the Thai Border.<sup>23</sup>

4.19 In regional and multilateral diplomacy, the government has maintained a strong focus on Burma. ASEAN has been used as a forum, with its member countries being urged to encourage change in Burma. The Foreign Minister has raised the government's concerns at the UN General Assembly, the ASEAN Post Ministerial Conference, the ASEAN Regional Forum and at meetings with ASEAN and other Foreign Ministers. Australia will work with Burma within ASEAN and will continue to raise concerns bilaterally. In 1996 and 1997 Australia undertook in the UN General Assembly Third Committee and Commission on Human Rights (CHR53), with other countries in the region, to produce strong, consensus resolutions on Burma.<sup>24</sup>

4.20 In April 1998, the UN Commission on Human Rights adopted a European Union motion on Burma which expressed concerns at abuses such as extrajudicial executions, torture, and repression of ethnic and religious minorities.<sup>25</sup> At that session the Special

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19 All Burma Students' Democratic Front, Submission, p. 801.

20 *ibid.*

21 Address by the Hon Alexander Downer, MP, Minister for Foreign Affairs, at Consultations between the Department of Foreign Affairs and Trade and Non-Government Organisations on Human Rights, Canberra, 30 July 1996, DFAT/AusAID, Submission, p. 887.

22 DFAT/AusAID, Submission, p. 820.

23 *ibid.*

24 *ibid.*, pp. 820, 846, 848.

25 Lintner, Bertil, 'Velvet Glove', *op. cit.*, p. 20.

Rapporteur on the situation of human rights in Myanmar and the Australian representative both referred to some modest developments in the Burmese situation.<sup>26</sup>

4.21 DFAT's submission described 'practical and creative ways' in which the government looks to bring about democracy and greater respect for human rights in Burma. Mr John Dauth, head of DFAT's South and South East Asia Division went to Rangoon in September 1997, as the Minister's Special Envoy, to follow up the Minister's discussions with the Burmese Foreign Minister at the ASEAN meeting.<sup>27</sup> Mr Dauth delivered the Minister's message to senior officials and ministers responsible for the policies against which Australia protested. DFAT described this as 'the best opportunity Australia has ever had to register our concerns directly with the SLORC'.<sup>28</sup> While there have been some concessions, restrictions against the National League for Democracy (NLD) continue.

4.22 DFAT referred to:

... regular ongoing dialogue where we make no bones about our continuing concerns that the Burmese authorities move to a more acceptable approach to the recognition of human rights, particularly in terms of democratic issues and representation.<sup>29</sup>

4.23 Australia has maintained close contact with the General Secretary of the NLD, Daw Aung San Suu Kyi and will continue to inform and consult her about Australia's policy on Burma. Through dialogue with the NLD and legal ethnic minority groups inside Burma, the government provides support for those inside the country who seek the promotion of human rights. The government also maintains contact with Burmese democratic and ethnic groups outside Burma. The Australian Embassy in Burma provides reliable information for the international and Australian media and NGOs, therefore contributing to international awareness and pressure on Burma. In June 1997 the Minister held a meeting with some NGOs with Burmese interests in order to discuss the situation and Australia's approach.<sup>30</sup> In 1995, before he became Deputy Prime Minister and Minister for Trade, Mr Tim Fischer, MP, held discussions with Suu Kyi at her home in Rangoon. In 1997, the Hon Barry Jones, MP, attempted to visit Suu Kyi but was stopped three times by SLORC officials.

4.24 The Australian government's concern for ethnic minority refugees who have been driven across the Thai border by the Burmese Army was raised in February 1997 and March 1998 with the Burmese and Thai authorities. In March 1998 the Foreign Minister condemned recent attacks by the Burmese government-sponsored Karen splinter group on two refugee camps on the Thai-Burma border. The Minister stated that he had instructed the Embassy in Rangoon to make this point to the SPDC and he had instructed the Embassy in Bangkok to hold discussions with the Thai government over the need for security of the camps.<sup>31</sup> The government continues to press for assurances from the Thai government that sanctuary will be extended to civilian Karen and other refugees while they are unable to return to Burma.<sup>32</sup>

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26 United Nations Commission on Human Rights, *Press Release*, 16 April 1998, pp. 1 and 5.

27 DFAT/AusAID, Submission, p. 820.

28 *ibid.*, p.821.

29 DFAT/AusAID, Transcript, p. 272.

30 DFAT/AusAID, Submission, p. 821.

31 Minister for Foreign Affairs, *Media Release*, FA29, 18 March 1998.

32 DFAT/AusAID, Submission, p. 822.

4.25 The situation of the Karen and other ethnic minorities is monitored by the Australian government—senior officials from the Embassy in Bangkok travelled to border camps in September 1997 to observe their circumstances. The officials spoke to representatives of the Karenni, Karen and Shan, to Thai officials and NGOs and concluded that international attention and visits to the camp had an effect on the Thai officials.<sup>33</sup> The attacks in 1998 suggest that the Burmese government continues to pay scant attention to international opinion regarding the situation of the refugees.

4.26 Assistance for the humanitarian needs of Burmese people is channelled through foreign NGOs and UN agencies. In March 1997, the Minister announced the grant of an additional \$1.3 million in humanitarian relief for Karen refugees living in camps along the Thai Burma border. In March 1998, the Minister announced that in 1997-98 the government would provide \$1 million to assist the refugees.<sup>34</sup> AusAID, in conjunction with an Australian NGO, has developed a program to provide up to 200 Burmese refugees with access to higher education in Australia.<sup>35</sup>

## Cambodia

4.27 In July 1997, disintegration of the coalition government composed of the royalist FUNCINPEC (National United Front for a Neutral, Peaceful, Cooperative, and Independent Cambodia) party and the Cambodian People's Party (CPP) was completed when forces loyal to Second Prime Minister Hun Sen of the CPP defeated FUNCINPEC forces loyal to First Prime Minister Prince Norodom Ranariddh. In August 1997, the National Assembly approved the replacement of Prince Ranariddh as First Prime Minister by Foreign Minister Ung Huot (FUNCINPEC). The UN Centre for Human Rights documented at least 55 cases of politically motivated extrajudicial killings in Cambodia between 2 July and the end of 1997. In addition, there were at least 13 reports of politically motivated disappearances during and following the fighting in Phnom Penh in July 1997.<sup>36</sup>

4.28 DFAT stated that improvement to the observance and protection of human rights in Cambodia was a priority for the Australian government. During 1997, a major concern was the violence and intimidation directed at political parties, and reports of extra-judicial executions, especially after the July conflict. Ongoing concerns are in the rule of law and judicial independence, impunity for those who commit abuses, ill-treatment of prisoners, child prostitution, and child trafficking.<sup>37</sup>

4.29 The Australian government has made clear its grave concerns about the use of military force and its concern for human rights in Cambodia generally:

We consistently have called on the Hun Sen government to ensure respect for human rights, we have expressed our concerns about extrajudicial killings and we have been very robust in asking the Cambodian government to investigate these issues. We have done

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33 *ibid.*

34 *ibid.* and Minister for Foreign Affairs, *Media Release*, FA29, 18 March 1998.

35 DFAT/AusAID, Submission, p. 822.

36 Bureau of Democracy, Human Rights, and Labor, US Department of State, *Cambodia Country Report on Human Rights Practices for 1997*, 30 January 1998, pp. 1, 3 and 4.

37 DFAT, AusAID, Submission, p. 823.

these things bilaterally, but we have also been active internationally through the loose group known as the Friends of Cambodia...<sup>38</sup>

4.30 The promotion and protection of human rights and fundamental freedoms, including free and fair national elections, are regarded as essential to the return of political stability. Australia strongly supported international consensus on the need for free, fair and credible elections at a meeting of ASEAN Foreign Ministers in New York in the margins of the UN General Assembly in September 1997. Australia is providing technical electoral assistance for the forthcoming elections (AusAID is providing up to \$500,000 to support the preparations).<sup>39</sup>

4.31 The Australian Electoral Commission (AEC) has provided officers to assist with electoral operations in Cambodia, such as in preparation of a draft of the United Nations Electoral Law for Cambodia (1992), as project manager in the United Nations for the development of a computer system used to compile voter registration data (1992), and as Senior Deputy Chief Electoral Officer (Operations and Computerisation) in the Electoral Component of the United Nations Transitional Authority in Cambodia. AEC officers have volunteered through Australian Volunteers Abroad to work as District Electoral Supervisors in Cambodia.<sup>40</sup> During the 1993 elections, 44 AEC officers served as International Polling Station Officers and in 1995, two AEC officers participated in a seminar in Phnom Penh to examine issues relating to the conduct of future elections. The AEC's assistance towards Cambodian elections has continued during 1996 and 1997 with advice to a visiting Cambodian delegation and AEC officers travelling to Cambodia to prepare project plans and provide information technology support.<sup>41</sup>

4.32 AusAID has committed \$12,600,000 towards criminal justice assistance in Cambodia over the period 1997-2000. More than \$360,000 was allocated in the five years to 1997 for human rights training and education.<sup>42</sup>

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38 DFAT/AusAID, Transcript, p. 288.

39 DFAT/AusAID, Submission, pp. 823 and 824.

40 AEC, Submission, p. 1133.

41 *ibid*, pp. 1134-1136

42 Exhibit 12, *op. cit.*, pp. 1-2.

## China

4.33 There have been some recent indications of progress on human rights in China. On 27 October 1997, the People's Republic of China signed the International Covenant on Economic, Social and Cultural Rights (ICESCR) and Vice Premier and Foreign Minister, Qian Qichen, has stated that China intends to sign the International Covenant on Civil and Political Rights (ICCPR). Foreign Minister Downer said that 'China's accession to ICESCR and ICCPR has been a matter I have emphasised in my discussions with the Chinese Government, and has been a priority for us in our bilateral human rights dialogue with China'. The Minister stated that China's acceptance of the ICCPR and ICESCR will 'mark an important step towards Australia's goal of universal acceptance of the International Bill of Human Rights'.<sup>43</sup>

4.34 The Committee notes the work of Australian human rights delegations to China in 1991 and 1992, as well as persistent diplomatic activity over several years, in emphasising the importance of China's ratification of these key instruments.

4.35 In 1997 the Chinese government allowed the UN Working Group on Arbitrary Detention to visit China. The government also expanded its dialogue on human rights with other countries during the year. Although repressive measures continue to be used, there was some tolerance of opposition to government policies and calls for reform. A number of dissidents and academics challenged the government's policies and advocated reform. While some were not subject to repression, others were harassed, arrested or rearrested, left the country or were placed under stricter forms of house arrest.<sup>44</sup>

4.36 Recently, high-profile political prisoners have been released on medical parole, or before completion of their terms, for example, Wei Jingsheng.<sup>45</sup> Wang Dan, China's most prominent political prisoner, was released on medical grounds in April 1998. Wei Jingsheng is reported to have warned United Nations High Commissioner for Human Rights, Mrs Mary Robinson, against being used as a 'tool of propaganda' when she makes an official visit to Beijing in September 1998. Wei criticised the United Nations Commission on Human Rights for not acting decisively on China.<sup>46</sup>

4.37 The Australian Prime Minister, when visiting China in March 1997, proposed to Premier Li Peng that a regular human rights dialogue be established.<sup>47</sup> The first round of talks was held in Beijing in August 1997. The Australian delegation comprised senior officers from DFAT, the Attorney-General's Department, AusAID, and the Australian Ambassador to China. It held formal talks with a Chinese Ministry of Foreign Affairs delegation and called on Chinese organisations responsible for matters affecting human rights in China, including the Ministry of Justice, the All-China Women's Federation, the Supreme People's Court and the State Nationalities Affairs Commission.<sup>48</sup>

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43 Minister for Foreign Affairs, *Media Release*, FA27a, 13 March 1998.

44 Bureau of Democracy, Human Rights, and Labor, US Department of State, *China Country Report on Human Rights Practices for 1997*, 30 January 1998, p. 2.

45 *ibid.*

46 USIA Washington File, EF407, 9 April 1998.

47 DFAT/AusAID, Submission, p. 825.

48 *ibid.*



4.38 DFAT reported that this dialogue allowed the Australian government to convey its concerns in a number of areas and to register Australian views on human rights in China and developments in international forums.<sup>49</sup> Hong Kong, including Australia's concern for continuation of the rule of law, rights and freedoms and democratic institutions, was an item raised during the dialogue. The delegation also raised concerns about protection of religious freedoms and preservation of cultural identity, and Australia's interest in Tibet.<sup>50</sup>

4.39 The 1997 delegation raised matters concerning the criminal justice system, including use of the death penalty, reform and re-education through labour, illegally obtained evidence and reports of the use of torture, appeals and detention. China's family planning policy, and women's and children's rights were also discussed.<sup>51</sup> The 1991 and 1992 delegations had raised the same matters.

4.40 Legal protections for human rights and problems in implementation of legislation and policy were covered by the 1997 delegation. DFAT stated that this approach was valuable in identifying possible areas of technical cooperation which would help strengthen the capacity of relevant bodies to implement existing legal measures and to develop any necessary legislative and administrative mechanisms to promote and protect rights and freedoms guaranteed under the constitution.<sup>52</sup>

4.41 A program of technical cooperation was agreed to, with the aim of providing practical support to China's efforts to improve observance of human rights. This is consistent with the government's overall approach to human rights: emphasising practical, realistic policies targeted at the achievement of outcomes that make a 'real difference to the lives of individuals'.<sup>53</sup> The program is to focus on strengthening institutions, policy development, research, training and administrative resources in human rights. The Minister approved \$300,000 for this in the 1997-98 financial year.<sup>54</sup>

4.42 The August 1997 round of talks is regarded as laying the foundation for continuing dialogue on human rights and a promising addition to the expanding range of bilateral consultations between China and Australia. The next dialogue is expected in Australia in the second half of 1998.<sup>55</sup> A Joint Statement was issued on 14 August 1997, referring to the importance of universality and indivisibility of human rights, 'recognising that respect for human rights is integral to sustainable development. At the same time, there was acknowledgment that there were different perspectives and approaches to human rights'.<sup>56</sup>

4.43 This Committee, in its 1994 report, *A Review of Australia's Efforts to Promote and Protect Human Rights*,<sup>57</sup> made clear that family-planning related human rights violations were unacceptable. The report stated:

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49 *ibid.*

50 *ibid.*

51 *ibid.*

52 *ibid.*, p. 826.

53 *ibid.*

54 *ibid.*

55 *ibid.*

56 *ibid.*, p. 932.

57 Joint Standing Committee on Foreign Affairs, Defence and Trade, *A Review of Australia's Efforts to Promote and Protect Human Rights*, 1994.

Forced sterilisation and abortion, infanticide, restricted health and welfare benefits for families above a mandatory size, and reduced employment opportunities for women who bear more than the mandatory number of children are quite unacceptable to the Committee and it urges the Australian Government to speak against such practices in all appropriate forums.<sup>58</sup>

This position was affirmed in *Australia China Relations*, the report of the Senate Foreign Affairs, Defence and Trade References Committee, in June 1996.<sup>59</sup>

4.44 Recent evidence given to the US Congress by Gao Xiao Duan, a former Chinese population control administrator who headed a 'Planned-Birth Office' in the southern province of Fujian from 1984 to this year demonstrates that these human rights violations continue. Gao Xiao Duan testified of coercive practices including forced abortion up to nine months gestation, forced sterilisation, imprisonment of pregnant women and the destruction of houses of non-compliers.<sup>60</sup>

4.45 The Committee reaffirms the statements of the previous reports cited above and calls on the Australian government to ensure it raises and opposes such human rights violations in ongoing regional dialogues.

4.46 With respect to multilateral activity, DFAT reported at the 53rd session of the UN Commission on Human Rights, the government decided that the draft resolution (which had failed to be adopted six times) did not represent a 'productive way of seeking to improve China's observance of human rights'. Australia, therefore, did not co-sponsor the resolution. Several other countries who had co-sponsored the resolution on previous occasions declined to do so. DFAT stated that this reflected its assessment of the 'diminishing value of that particular course of action'.<sup>61</sup>

4.47 As discussed in the previous chapter, when elaborating on the need for Australia to collaborate with like-minded countries, HREOC referred to the decision by Australia not to co-sponsor the 'regular' motion dealing with China. It noted that some traditional sponsors withdrew and it did not canvass the arguments for or against the decision. HREOC emphasised, however, that the greatest damage to human rights advocacy was caused by the division of opinion and strategy among states that are human rights advocates, not the fact that it was decided not to co-sponsor.<sup>62</sup>

## Hong Kong

4.48 The human rights situation in Hong Kong does not appear to have deteriorated following the reversion to Chinese sovereignty on 1 July 1997. The Sino-British Joint Declaration on Hong Kong provided for six-monthly reports to be presented to the United Kingdom Parliament. The report for the period July-December 1997 states that:

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58 *ibid.*, p. 75.

59 Senate Foreign Affairs, Defence and Trade Committee, *Australia China Relations*, 1996, p. 180.

60 *The Age*, 15 June 1998, p. 7; *Courier Mail*, 12 June 1998, p. 19.

61 DFAT/AusAID, Submission, p. 847.

62 HREOC, Submission, p. 1173.

Hong Kong retains a free and dynamic press. ... Full continuity has been achieved in the legal system. The rule of law, essential to Hong Kong's continued prosperity and stability remains strong and durable.<sup>63</sup>

4.49 The British government raised the issue of submission of reports on human rights in Hong Kong to the United Nations treaty monitoring bodies, as required under the ICCPR and ICESCR. In November 1997, the Chinese Foreign Ministry stated it would present reports to the United Nations; these will be prepared by the Hong Kong Special Administrative Region (HKSAR) government and transmitted to the United Nations by the Chinese government.<sup>64</sup>

4.50 Arrangements are being made to allow submission of reports on Hong Kong under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Rights of the Child (CROC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The Hong Kong authorities will draft these for incorporation in China's national reports. In addition, the situation in respect of demonstrations and protests has been described as encouraging.<sup>65</sup>

4.51 Some press reports in early 1998 were less enthusiastic. The rule of law was said to have suffered a blow as a result of the failure of the Department of Justice to prosecute the Xinhua news agency over a clear violation of the law. There was also criticism of a decision not to prosecute a newspaper publisher.<sup>66</sup> Controversy arose in April 1998 over debate on a bill (the Adaptation of Laws Bill) that could put Chinese state-run bodies above local law. Human rights groups and democracy campaigners had urged unsuccessfully that the bill not be debated until after the elections in May.<sup>67</sup>

4.52 The strong turnout (53% of registered voters) of voters at the May elections for the Hong Kong legislature, and support for pro-democratic candidates was heartening for those concerned that the human rights of the people of Hong Kong not be downgraded. Mr Martin Lee, the Democratic Party Chairman, was quoted as saying:

The Hong Kong people have spoken with one voice to say that we want to choose our own leaders, through democratic elections.<sup>68</sup>

Mr Lee's party is to press for a fully elected legislature by the year 2000 and an elected Chief Executive by the year 2002.<sup>69</sup>

4.53 This Committee, in its 1997 report, *Hong Kong: the Transfer of Sovereignty*, recommended that every year, for the next five years, the Australian government should

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63 Secretary of State for Foreign and Commonwealth Affairs, *Six-monthly Report on Hong Kong, July-December 1997*, January 1998, p. 5.

64 *ibid.*, p. 22.

65 *ibid.*

66 Ching, Frank, 'Protecting the Public Interest', *Far Eastern Economic Review*, 9 April, 1998, p. 38.

67 *The Age*, 7 April 1998, p. A9.

68 'Hong Kong. Now the Hard Part', *Far Eastern Economic Review*, 11 June 1998, p. 12.

69 *ibid.*

report to Parliament on the political, economic and human rights developments in the HKSAR. The government did not agree to this recommendation but advised in its response to the report that it would 'continue to take an active and close interest in developments in Hong Kong'.<sup>70</sup> As indicated above, the government's interest in human rights in Hong Kong was conveyed to the Chinese government during the Australian official delegation's visit in 1997.

## Tibet

4.54 The human rights situation in Tibet was the source of considerable evidence to the Committee during the inquiry.<sup>71</sup> Professor Samdhong Rinpoche, Chair of the Assembly of Tibetan People's Deputies in exile, gave evidence that the human rights situation in Tibet has been 'very seriously deteriorating during recent years', particularly through the 'strike hard' campaign and re-education of the Tibetan people. He mentioned oppression by way of unlawful detention, disappearance, imprisonment and inhumane torture in prisons, concentration camps and detention centres, as well as absence of the rule of law and of an independent judiciary and trial before punishment. In addition, he referred to torture of women and children and gross destruction of the environment and ecosystem inside Tibet, as well as an ethnic cleansing policy.<sup>72</sup>

4.55 The Tibetan Centre for Human Rights and Democracy expressed 'profound disappointment' at what it saw as the failure of the United Nations in respect of the situation in Tibet, with a 'yawning gap' between the initial commitments of the United Nations Charter and its member states, the reaffirmation of the 1993 Vienna Declaration, and the lack of action for 32 years since the last General Assembly resolution on Tibet.<sup>73</sup> Current approaches to human rights dialogue between China and other countries was reported to have yielded no improvement in human rights on the ground in Tibet.<sup>74</sup>

4.56 The Australia Tibet Council referred to the Australian government's talks in China in 1997 and suggested the time allocated to these talks would be minor in comparison to those devoted to economic matters. It also noted the Australian government had gone to some lengths to protect visiting Chinese leaders from human rights protesters, while ensuring access to economic leaders. The Council regretted the lack of public or published reports of the 1997 talks and noted that discrepancies had emerged between the official Chinese description and the unofficial briefings given by Australian officials. The lack of participation by human rights experts from non-government or academic sectors was seen as a further weakness in the dialogue.<sup>75</sup>

4.57 The Australia Tibet Council summed up its perceptions of Australia's current approach:

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70 Joint Standing Committee on Foreign Affairs, Defence and Trade, *Hong Kong: the Transfer of Sovereignty*, May 1997, p. 119, and Government Response to the Report of the Joint Standing Committee on Foreign Affairs, Defence and Trade on *Hong Kong: the Transfer of Sovereignty*, 1997, p. 16.

71 See submissions and evidence by the Australia Tibet Council and Tibet Information Office.

72 Tibet Information Office, Transcript, pp. 323-325.

73 Tibetan Centre for Human Rights and Democracy, Submission, p. 266.

74 *ibid.*, p. 267.

75 Australia Tibet Council, Submission, p. 388.

Certainly, there is a place for quiet diplomatic representations on human rights matters, particularly when the lives or safety of individuals are at imminent risk. However, for a democracy like Australia which prides itself on the openness and vigour of its own internal debates, there is also at times a need to exemplify those qualities in dealing with other governments. Otherwise, there is a danger that Australia's human rights diplomacy will become so low-key as to be indiscernible.<sup>76</sup>

4.58 The Council made the following suggestions which are, in general, supported by this Committee:

- that the Australian government should include at least one independent human rights expert in any delegation of government officials to China;
- coordination with other countries engaged in bilateral dialogue with China over human rights;
- a clear mechanism for providing Australians with information about the outcomes of the dialogue; and
- the use of indicators to judge the effectiveness of the dialogue over time.<sup>77</sup>

4.59 The Committee recommends that:

- 6. In respect of human rights dialogue with China:**
- (a) the Australian government consider the inclusion of an independent human rights expert in any future Australian delegations to China; and**
  - (b) the Australian government liaise and coordinate, so far as practicable, with other countries engaged in bilateral dialogue with China on human rights.**

4.60 The Council suggested that Australia could play a mediating role between China and the Dalai Lama over the future of Tibet. If Australia could facilitate talks it would have a significant effect on regional dialogue on human rights because of its impact on Tibetans and also because of the model it would provide which could be used elsewhere in the region and the world.<sup>78</sup> Samdhong Rinpoche also saw a role for Australia in persuading the Chinese authorities to enter dialogue with Tibetans in exile and the Dalai Lama. Such dialogue would contribute to peace and stability in the region.<sup>79</sup>

4.61 The Committee endorses the suggestions for a possible mediating role for Australia in respect of Tibet. The Committee recommends that:

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76 *ibid.*

77 *ibid.*, p. 389.

78 *ibid.*, pp. 389-390.

79 Tibet Information Office, Transcript, p. 334.

**7. The Australian government examine the possibility of playing a mediating role in respect of initiating dialogue between the Chinese government and the Dalai Lama.**

## **Democratic People's Republic of Korea**

4.62 The DPRK remains a severely isolated country, but its disastrous food shortage has necessitated closer relations with the United States and Japan, in order to obtain food aid and economic assistance. International humanitarian aid has alleviated malnutrition, to some degree, but there are still grave problems in the economy.<sup>80</sup>

4.63 DFAT reported that the human rights situation in the DPRK remained a matter of serious concern. There were reports of a variety of human rights violations, including arbitrary detention, torture, and suppression of freedom of expression, assembly, public information, freedom of religion, human rights defenders, women's rights and labour rights.<sup>81</sup>

4.64 Diplomatic relations between Australia and the DPRK were suspended in 1975 when the DPRK withdrew its embassy from Canberra and expelled the Australian Embassy staff in Pyongyang. However, there is unofficial contact through the Australian Embassy in Bangkok, and to some extent in New York and Geneva. During these contacts Australian officials emphasise Australia's precondition to the resumption of relations: the preparedness of the DPRK to conform to internationally accepted norms of behaviour. Australia has conveyed through the DPRK Ambassador in Bangkok the concern of the Australian government at the DPRK's intention to withdraw from the ICCPR.<sup>82</sup>

## **India**

4.65 Until the series of five nuclear tests undertaken by India in May 1998, Australia's relations with India were generally friendly. However, at this time, Australia suspended bilateral defence relations with India, suspended non-humanitarian aid and Ministerial and Senior Official visits. Australia's High Commissioner to India was recalled for consultations and the Foreign Minister expressed outrage at the tests and their potential to damage security in South Asia and globally.<sup>83</sup>

4.66 In its submission, DFAT noted that India has extensive constitutional and statutory safeguards in place for the promotion and protection of human rights. However, security and police abuses continue, including disappearances, deaths in suspicious circumstances and rape in custody.<sup>84</sup>

4.67 Amnesty International referred to a range of human rights violations in India, from torture in police custody, to emergency legislation which enables 'virtual impunity' for the armed forces in areas such as Kashmir. Amnesty referred to the work of the Indian National Human Rights Commission (NHRC) which had an enormous number of complaints

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80 DFAT, Country Briefs, 'Democratic People's Republic of Korea', 1998.

81 DFAT/AusAID, Submission, p. 826.

82 *ibid.*, p. 827.

83 Minister for Foreign Affairs, *Media Release*, FA59, 14 May 1998.

84 DFAT/AusAID, Submission, p. 827.

to deal with, but was hindered in its work by special legislation that prevented it from investigating some of the worse violations.<sup>85</sup>

4.68 The NHRC has recommended that India become a party to the Convention against Torture and Other Forms of Cruel, Inhuman and Degrading Treatment or Punishment. Other human rights issues include over-crowding and maladministration in the penal system and children's issues.<sup>86</sup>

4.69 Australia's High Commission in New Delhi has regular dialogue with the NHRC and the High Commission makes representations on individual human rights cases including the abuses alleged against human rights defenders in Andhra Pradesh.<sup>87</sup> Australia's HREOC and the NHRC also have regular cooperation and dialogue and HREOC representatives have participated in a joint seminar with the NHRC in India in 1994 regarding cooperation between the two bodies.<sup>88</sup> Dialogue on human rights issues, including the Asia Pacific Forum of National Human Rights Institutions, has also taken place in Australia-India Senior Officials' Talks.<sup>89</sup>

4.70 AusAID's activities in India for the period 1997-2000 include funding of more than \$10 million towards UNICEF's primary education program which focuses on child labour, by ensuring primary educational services to 90000 vulnerable children.<sup>90</sup>

## Indonesia

4.71 The government's relations with Indonesia, and the place of human rights in those relations, has come into sharp focus in the wake of the Asian currency crisis, and the demise of the Suharto government. At the same time as reports grew of the disappearance and torture of activists, the killing and wounding of students during political protests and ethnic-Chinese during food riots, there were some indications of political and economic reform. Since coming to office on 21 May, President Habibie has begun releasing political prisoners. There have also been reports that East Timorese activists will be released from prison during June.

4.72 When the crisis was at its height, the Australian Embassy requested meetings with senior Indonesian officials over the alleged disappearance and torture of political activists and the Australian Defence Minister, the Hon Ian McLachlan, MP, was reported to have raised the issue with his counterpart, also the Chief of the Indonesian Armed Forces, General Wiranto. Mr McLachlan stated that the Indonesian military was trying hard to solve the problem of the disappearances.<sup>91</sup> At the same time, there were allegations of military involvement in the disappearances. The Deputy Chairman of the Indonesian National Human

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85 Amnesty International, Transcript, p. 81.

86 DFAT/AusAID, Submission, p. 827.

87 *ibid.*

88 *ibid.*, p. 862.

89 *ibid.*, p. 828.

90 Exhibit 12, AusAID, *Summary of Current AusAID Activities Addressing Good Governance and Human Rights in the Asia Pacific Region*, November 1997, p. 4.

91 *The Age*, 16 April 1998, p. A10.

Rights Commission (Komnas HAM), Marzuki Darusman, said that the Indonesian government's response to the kidnap and torture was disturbing.<sup>92</sup>

4.73 Komnas HAM issued a statement on the enforced disappearance of persons and appealed for a cessation of this practice. The statement included the following paragraphs:

From the cases of missing persons reported, the Commission concludes that the enforced disappearance of persons was conducted by a well-organized group. There are strong indications within the society that the possibility is not foreclosed that elements of security forces were involved in the enforced disappearance of persons. ...

The basic attitude of the government and the Armed Forces, particularly the Police, to date, has not convinced the public of their political and legal accountability [and] understanding on the gravity of the current problem of enforced disappearance of persons. Neither is the public convinced of their sincerity to reassure the public. ...<sup>93</sup>

4.74 According to DFAT, at the time of its submission to the inquiry, in November 1997, human rights observance in Indonesia had been improving in some areas, particularly regarding economic rights. However, it was still a matter of concern, as was the issue of human rights in East Timor.<sup>94</sup>

4.75 Generally, there had been an increase in abuse of civil and political rights and an increase in prosecutions under the Anti-Subversion Law for political dissent. Land disputes formed the largest part of the work of the National Commission on Human Rights. The DFAT submission suggested there would be substantial improvements over the longer term because of a view that the Indonesian government and military had a stronger commitment to human rights. The development of a strong legal culture and institutions and active NGOs would assist in the process.<sup>95</sup>

4.76 These improvements came to appear superficial in light of the treatment of protesters in May 1998, however, the incidence of abuse at the hands of police and armed forces had generally improved over the last twenty to thirty years, according to DFAT. When the government acted against political opponents, that was now being done through the courts, rather than extrajudicially. The fact that human rights debate in Indonesia was visible in the international and Australian media was also seen as positive.<sup>96</sup> However, the reporting of the May 1998 protests was said to be severely restricted in Indonesia, with footage supplied by government sources being the only one available for use.<sup>97</sup>

4.77 In her submission to the inquiry, Ms Kate Burns referred to the failure by Indonesia to publish the text of any human rights treaties which it has signed or ratified. The

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92 'Indonesian Human Rights Commission Probes Torture Allegations', *Asia Pacific Transcripts*, Australian Broadcasting Corporation, 29 April 1998, p. 1.

93 The National Commission on Human Rights, *Statement of the National Commission on Human Rights Regarding Enforced Disappearance of Persons*, 30 April 1998.

94 DFAT/AusAID, Submission, p. 828.

95 *ibid.*

96 DFAT/AusAID, Transcript, pp. 14-15.

97 *Canberra Times*, 18 May 1998, p. 1.



result is that many Indonesians may not be aware of the obligations that the government has entered, and the opportunity this presents to press for their rights to be upheld.<sup>98</sup>

4.78 During visits to Indonesia in 1996 and 1997, Mr Downer held discussions on human rights issues, particularly on East Timor, with Foreign Minister Alatas and other ministers. Human rights issues were raised with Minister Alatas twice again in 1997 and the situation in East Timor was raised by Mr Downer with President Suharto in 1997.<sup>99</sup>

4.79 Human rights issues in East Timor and other parts of Indonesia are monitored by the Australian Embassy in Jakarta, and the Australian Ambassador visited East Timor in June 1997 where he met East Timorese religious and political leaders, and the provincial and district military and police commanders. Ambassador McCarthy reported Australia's concerns about security in East Timor and called for restraint on all sides.<sup>100</sup> Mr McCarthy is also reported to have visited East Timor in mid-June 1998.

4.80 The issue of human rights in East Timor has been brought to the attention of the UN Commission on Human Rights where a resolution was adopted at the 1997 session. Australia was an observer at the session and was not able to vote on a resolution although DFAT stated its view was 'a resolution was not likely to engage Indonesia's cooperation in improving the human rights situation in East Timor' and so it did not co-sponsor the resolution. However, it encouraged the adoption of a consensus Chairman's statement.<sup>101</sup>

4.81 At the 54th session of the UN Commission on Human Rights, Australia worked towards adoption of a Chairman's Statement on East Timor. Mr Downer welcomed the statement and the Indonesian government's decision to invite the United Nations Working Group on Arbitrary Detention to visit East Timor. The Chairman's statement referred to progress on conclusion of a Memorandum of Understanding on technical cooperation with the Office of the High Commissioner for Human Rights and on the assignment of a program officer to implement the program in Indonesia; access to East Timor is included. The Minister also welcomed the Indonesian government's intention to launch a National Plan of Action on human rights in 1998 and to ratify the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>102</sup>

4.82 At the local level, the Australian Embassy in Indonesia has a dialogue on human rights with Indonesian officials. Issues such as implementation of the Criminal Code and Criminal Procedures Code police behaviour, laws affecting freedom of expression, subversion trials, legal procedures, treatment of prisoners, opposition to the death penalty and human rights guidelines for the Indonesian Armed Forces (ABRI) in Irian Jaya are raised.<sup>103</sup> DFAT says these exchanges have encouraged Indonesia to ratify major international human rights instruments, with likely ratification of the CERD, and the ICESCR.<sup>104</sup>

4.83 Representations on individual human rights cases are also made by the Embassy. These reflect a wide range of human rights concerns. Embassy representatives have attended

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98 Burns, Submission, p. 82.

99 DFAT/AusAID, Submission, p. 829.

100 *ibid.*, pp. 829-830.

101 *ibid.*, pp. 846-847.

102 Minister for Foreign Affairs, *Media Release*, FA49, 25 April 1998.

103 DFAT/AusAID, Submission, p. 830.

104 *ibid.*

trials of political cases, to monitor developments and to demonstrate the Australian government's commitment to due process and other legal rights. The Embassy also discusses human rights issues with contacts outside the government, including prominent human rights advocates and relevant NGOs.<sup>105</sup>

4.84 The stance of successive Australian governments over East Timor has been the subject of severe criticism and has been cited as an example of the failure of quiet diplomacy and the triumph of economic interests over human rights.<sup>106</sup> Australia's approach has been to:

... seek to encourage and help develop Indonesia's own capacities to protect human rights rather than to lecture or to criticise in a way that would be counter productive.<sup>107</sup>

4.85 The Committee agrees that public criticism of Indonesia's human rights record was unlikely to prove any more productive than quiet diplomacy and would perhaps have encouraged Indonesia to isolate itself from Australia and its regional neighbours. Such public criticism would likely have appealed to public opinion in Australia which sees so many years of inaction over Indonesia's treatment of East Timorese as a betrayal. There are clearly wide-ranging views on the most appropriate approach to be taken.

4.86 Recently, the deputy chairman of the Indonesian Human Rights Commission reportedly called for President Habibie and the East Timorese movement to 'seize the moment' to find a solution that improves the treatment of people in East Timor, but is realistic about the prospects for self-determination. The writer of that report, Mr Rawdon Dalrymple, said 'That call should be heeded'.<sup>108</sup>

4.87 The Committee agrees with the sentiments expressed by Mr Dalrymple but also notes a contrary view expressed by Y B Mangunwijaya who reportedly wrote that Indonesia needs a new constitution which will redefine the balance of political power and confirm the independence of the judiciary, and that East Timor should be allowed to 'go free'.<sup>109</sup>

4.88 The Committee is conscious of the opportunity presented by the change of government in Indonesia to pursue the human rights of the people of East Timor and endorses calls for the Australian government to 'seize the moment' in its human rights dialogue with the Indonesian government.

4.89 The Committee recommends that:

**8. The Australian government continue to pursue actively in its dealings with the new Indonesian government its support for a solution to the difficulties in East Timor that is just, equitable and in the best interests of the people of East Timor.**

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105 *ibid.*

106 See, for example, Barns, Submission, p. 253; Jones, Submission, p. 211; Hobart East Timor Committee, Submission, p. 230; Australian Human Rights Foundation, Submission, p. 275.

107 DFAT/AusAID, Submission, p. 828.

108 'Jakarta needs goading', *The Australian*, 12 June 1998, p. 13.

109 'Habibie gets friendly warning to loosen the shackles', *The Australian*, 13-14 June 1998.

4.90 There have been positive developments in Australia's dialogue with Indonesia. DFAT reported a constructive dialogue on human rights at ministerial and officials' levels, and at the institutional level, with the development of cooperation between Komnas HAM and Australia's HREOC.<sup>110</sup> Australia's Human Rights Commissioner Sidoti suggested that the outspoken comments of Komnas HAM had contributed to a greater sense of pluralism in the political debate in Indonesia over the last year or so. It had begun to intervene more directly in a broader human rights way about some structural associations and institutional arrangements, again contributing to social developments in the country.<sup>111</sup>

4.91 Under the auspices of HREOC, a representative from the Asia Pacific Forum Secretariat visited Komnas HAM in early 1997 for discussions on technical cooperation and this visit was returned in mid-1997. Items covered included English language training for NCHR officers, the NCHR's monitoring, investigation and complaints handling procedures, and Australia's domestic human rights legislation. The Asia Pacific Forum Secretariat has undertaken a needs analysis for NCHR's training and assistance.<sup>112</sup>

4.92 In the wake of the unrest in May 1998, HREOC arrangements to host a visit by the NCHR to Australia in June 1998 under an AusAID funded training program were postponed and subsequently rescheduled. The Committee was pleased to note Mr Downer's recent announcement that the Australian government would contribute \$2 million to assist Komnas HAM to improve its capacity to protect and promote human rights.<sup>113</sup>

4.93 In 1996-97, the Australian government funded \$31,000 through the Institute of Policy Research and Advocacy for a legal aid and human rights monitoring office established in 1996 in Dili. This is important to the protection of legal rights in East Timor. The office plans to open a branch office in Baucau.<sup>114</sup> Funding of \$20,000 was provided by the Australian government to the Centre for Human Rights Studies to allow publication of human rights materials, including six issues of a compilation of human rights violations reported in Indonesia.<sup>115</sup> The International Committee of the Red Cross (ICRC) was provided with \$300,000 in 1997 by the Australian government towards humanitarian work in East Timor. The ICRC monitors the conditions of political prisoners and provides information on international humanitarian law to military and police officers.<sup>116</sup>

4.94 Indonesia has publicly argued against the linking of aid and human rights compliance:

Indonesia does object to the attempt to reduce that broad linkage [between human rights and development] to a narrow conditionality linkage, by imposing the implementation of human rights as a political condition to economic development cooperation.<sup>117</sup>

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110 *ibid.*

111 HREOC, Transcript, p. 59.

112 DFAT/AusAID, Submission, p. 862.

113 Minister for Foreign Affairs, *Media Release*, AA38, 17 May 1998.

114 DFAT/AusAID, Submission, p. 829.

115 *ibid.*

116 *ibid.*

117 United Nations document E/CN.4/1995/43, 13 January 1995, p. 14, cited in Burns, Submission, p. 83.

Whether that objection will be tested by an Australian stance that is more robust than cooperative remains to be seen. In April, the Campaign for an Independent East Timor was reported to have called on the Australian government to directly link any financial aid programs to improved human rights.<sup>118</sup>

4.95 In the previous chapter, the Committee recommended that a policy be developed on the use of conditionality in aid. Further to that recommendation, the Committee recommends that:

**9. The Australian government consider the inclusion of conditions relating to political reform and the observance of human rights in future development assistance to Indonesia.**

4.96 The plight of people in Irian Jaya was raised in evidence, particularly in relation to the drought there, and the apparent inactivity of the Indonesian government in providing assistance. This was said to be particularly difficult in a region that has the lowest standard of living in Indonesia. The people were said to suffer from inadequate health care, education, protection of their environment, and lack of recognition of their customary land ownership. Because they were suspected of supporting the resistance movement, there were areas whose people were not receiving drought assistance. The Australian West Papua Association urged the Australian government to pressure the Indonesian government to allow access for humanitarian relief.<sup>119</sup> The plight of thousands of West Papuan refugees who had crossed to Papua New Guinea was also raised, and it was noted that, with closure of the United Nations High Commissioner for Refugees office in Port Moresby, the East Awin refugee camp was no longer the responsibility of the UNHCR.<sup>120</sup>

4.97 In April 1998 it was announced that Australia would assist Indonesia in a drought relief operation in Irian Jaya, by providing airlift to deliver aid. This was to be done in cooperation with ABRI.<sup>121</sup> Up to \$10 million was allocated for this humanitarian assistance through the AusAID/Australian Defence Force relief operation. Supplies, including food and medicine, were to be transported by the ADF.<sup>122</sup> Also, through the United Nations Office for the Coordination of Humanitarian Affairs, the ICRC and NGOs, Australia provided \$3.3 million in relief assistance (food, medicine and logistical support) to Irian Jaya.<sup>123</sup>

## Japan

4.98 DFAT reported a cooperative working relationship between Australia and Japan on a range of human rights issues. This work is conducted in multilateral and regional forums. In pre-UN General Assembly talks in July 1997, Australian and Japanese officials discussed human rights issues that would be included in the agenda of the forthcoming

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118 AAP, 7 April 1998.

119 Australian West Papua Association, Transcript, pp. 164-165.

120 Australian West Papua Association, Submission, p. 347.

121 Department of Defence, Transcript, p. 355.

122 AusAID, 'Indonesia Drought Assistance', *Indonesian Crisis*, 1998.

123 *ibid.*

session of the Third Committee. The topics included the resolution which Australia sponsors on Cambodia.<sup>124</sup>

4.99 The Japanese Ministry of Foreign Affairs has hosted the First, Second and Third Symposiums on Human Rights in the Asia Pacific Region in 1995, 1996 and 1998. Australian representatives have attended each symposium.<sup>125</sup> DFAT also referred to an exchange visit by members of the Japanese Federation of Bar Associations' Media and Human Rights Committee to investigate mechanisms used in Australia to protect the human rights and privacy of individuals from violations by the media.<sup>126</sup>

4.100 In the Committee's view, the future of Australia's advocacy of human rights in the region lies in cooperation with like-minded countries, such as Japan. The Committee supports the cooperation between Australia and Japan on human rights issues and recommends that further, regular means of cooperation be explored, particularly with a view to promoting human rights in multilateral and regional forums.

## **People's Democratic Republic of Laos**

4.101 Improvement in the human rights situation over the last few years was reported in respect of Laos, but some concerns remain. Despite constitutional guarantees of freedom of assembly, religion and speech, in practice, they are not always tolerated. DFAT reported that the Lao government has become more willing to engage with the international community on human rights matters.<sup>127</sup>

4.102 In July 1997, while in Laos, Mr Downer raised with the Lao Foreign Minister the cases of three detainees who received 14 year sentences in 1992 for political activities. Mr Downer requested their release on humanitarian grounds and the Lao authorities were willing to discuss the issue. In Vientiane, the Australian Embassy has made regular representations to the authorities on behalf of the detainees and other individuals which have been referred to the Department.<sup>128</sup> An Australian Parliamentary Delegation visited Laos in September 1997, discussed human rights issues and reinforced the earlier representations.<sup>129</sup>

4.103 The ICRC has conducted seminars for Lao officials on issues such as international humanitarian law and the Australian Embassy has proposed a similar seminar.<sup>130</sup>

4.104 In March 1998 the Foreign Minister announced the Australian government would contribute \$250,000 to fund an independent audit of the seven State-owned commercial banks in Laos. This was in response to a request of the Lao government in its attempts to manage the impact of the Asian economic crisis. The Minister stated the Australian aid program's assistance for financial administration and other governance issues flowed from recognition that poverty reduction programs work best where governments are getting the economic

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124 DFAT/AusAID, Submission, p. 830.

125 *ibid.*, p. 831.

126 *ibid.*

127 *ibid.*

128 *ibid.*, pp. 831-832.

129 *ibid.*, p. 832.

130 *ibid.*

fundamentals right. It was also expected that the audit would provide Australia and other donors with an understanding of possible future needs in the Lao banking sector.<sup>131</sup>

4.105 With respect to assistance with a human rights focus, AusAID has allocated \$75,000 in 1996-97 to increase children's awareness of unexploded ordnance.<sup>132</sup> AusAID announced that, as part of its 1998-99 budget response to the development challenges presented by the financial crisis, \$56 million would be provided to Laos over four years.<sup>133</sup>

## **New Zealand**

4.106 Australia and New Zealand have frequent consultations on human rights. The foreign ministers met in New Zealand in August 1997 and discussed issues including the human rights situations in Burma and Cambodia. In July 1997 in Canberra officers of DFAT and the New Zealand Ministry of Foreign Affairs discussed issues including regional cooperation on human rights issues, reform of the UN Centre for Human Rights, human rights standard-setting and indigenous issues.<sup>134</sup>

4.107 At the UN General Assembly, and the Commission on Human Rights, the Australian and New Zealand delegations have worked closely together to pursue human rights objectives. Talks in September 1997 before the General Assembly included discussion of priority human rights issues for the session. Australia, New Zealand and Canada have sponsored a resolution at UNGA on advancement of women in the United Nations Secretariat.

4.108 As already indicated, in the Committee's view, Australia's advocacy of human rights in the region will be improved by a renewed emphasis on collaborative efforts. The Committee supports the close cooperation between Australia and New Zealand on human rights issues and looks forward to the possibility of further, regular cooperation on human rights with the New Zealand government, particularly with a view to promoting human rights in multilateral and regional forums.

## **Pacific Islands**

4.109 The Committee notes with concern the particularly low ratification of international human rights instruments among states of the South Pacific. Australia's Human Rights Commissioner, Mr Chris Sidoti, asserted that the ratification of the major instruments is worse in the Asia Pacific region than in any other. He attributed this to a number of reasons, including that the reporting requirements deter a significant number of smaller Pacific island states.<sup>135</sup>

## **Pakistan**

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131 AusAID, *Media Release*, AA21, 25 March 1998.

132 Exhibit 12, *op. cit.*, p. 4.

133 AusAID, *Media Release*, AA35, 12 May 1998.

134 DFAT/AusAID, *Submission*, p. 832.

135 HREOC, *Transcript*, p. 61. Chapter Six of this report canvasses the issue of ratification of treaties, generally, and the table at Appendix 5 sets out the ratification rates in the region for the international human rights instruments.

4.110 Pakistan's democratic political system is undermined by its poor human rights record. DFAT reports the general state of human rights is a matter of concern. Issues include continuing human rights violations by security forces and political parties (including extra judicial executions), a high level of sectarian and ethnic violence, abuses in the penal system (including death, and rape in custody), denial of women's rights, child labour, and forced labour.<sup>136</sup>

4.111 The Human Rights Commission of Pakistan (an NGO) reported in 1996 that the human rights situation had not improved appreciably since 1990.<sup>137</sup> Australia's Human Rights Commissioner Sidoti commented favourably on the work of this organisation and its leader, in an environment that is politically very difficult. Mr Sidoti also referred to the work of the Disadvantaged Persons Tribunal, which had been 'virtually a human rights commission', but following the election he had not been able to make direct contact with the Tribunal.<sup>138</sup>

4.112 The US Department of State, in its 1997 report, stated that after the dismissal of the Benazir Bhutto government in November 1996, the caretaker government and the later Nawaz Sharif government took some steps to end human rights abuses by police and paramilitary forces. However, police generally continued to commit serious abuses with impunity. The judiciary is subject to influence and suffers from a lack of resources, inefficiency, and corruption. The press largely publishes freely, but journalists practice self-censorship and the broadcast media are a government monopoly.<sup>139</sup>

4.113 DFAT noted that the Nawaz Sharif government had recognised the need to improve human rights observance. The essential cause for the lack of respect for civil and political rights is the underdeveloped democratic traditions and lack of effective human rights institutions.<sup>140</sup>

4.114 The government in Pakistan is addressing concerns about the use of child labour and has been participating in the International Labour Organization's International Program for the Elimination of Child Labour. Some initiatives under the program have been implemented. A survey of child labour in 1996 found that approximately 3.3% of children aged 5 to 14 are employed in various occupations.<sup>141</sup>

4.115 In terms of Australia's activities, the Australian High Commission has ongoing dialogue with ministers and officials, human rights NGOs and representative of minority communities. The issues discussed include child labour, bonded labour, the rights of women and discrimination against minorities. The High Commission has also urged the establishment of an independent national human rights institution. Pakistani officials attended the first Asia Pacific Workshop on National Human Rights Institutions in 1996 as observers.

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136 DFAT/AusAID, op. cit., p. 832.

137 ibid., pp. 832-833.

138 HREOC, Transcript, p. 52.

139 Bureau of Democracy, Human Rights, and Labour, US Department of State, *Pakistan Country Report on Human Rights Practices for 1997*, 30 January 1998, pp. 1-2.

140 DFAT/AusAID, Submission, p. 833.

141 ibid.

4.116 The Australian High Commissioner, in June 1997, established dialogue on human rights (child labour, extra judicial killings and the need for police reform) with the Minister for Law, Justice and Parliamentary Affairs. The High Commission also makes representations on human rights issues and individual cases and provides advice and comment.<sup>142</sup> DFAT also reported that human rights issues, particularly relating to women and children, were also raised by Australia in multilateral forums, including at conferences and the Commission on the Status of Women in New York.<sup>143</sup>

4.117 The Australian High Commission has allocated \$18,500 from the Direct Aid Program in 1996-97 to a project run by the Human Rights Commission of Pakistan. The aim is to improve conditions of bonded agricultural workers and the project consists of production of education material, training of field workers and employment of a lawyer to provide legal aid.<sup>144</sup>

## Papua New Guinea

4.118 Aside from the conflict with the Bougainville Revolutionary Army, there were reports that Papuan security forces have committed extra judicial killings, were responsible for disappearances, abused prisoners and detainees and employed harsh enforcement measures against civilians. Some allegations of abuse were investigated and prosecuted. Prison conditions are poor, detention before trial is lengthy and there are limits on freedom of assembly, extensive discrimination and violence against women and discrimination against the disabled.<sup>145</sup>

4.119 DFAT reported on regular and frank dialogue on human rights between the Australian High Commission in Port Moresby and the Papua New Guinea government at ministerial and officials' levels. The High Commission, through this dialogue, has made representations on individual cases including on behalf of three West New Britain villagers sentenced to death.<sup>146</sup>

4.120 Australia has committed \$123,000 towards establishment of a Human Rights Commission and Prime Minister Skate has announced his government would give priority to the establishment of the Commission.<sup>147</sup> It is expected that the Commission (whose establishment has been anticipated for several years) will examine human rights abuses in Bougainville. Australia also provides training, including on human rights, for the Royal Papua New Guinea Constabulary and the Papua New Guinea Defence Force.<sup>148</sup>

4.121 Papua New Guinea is the largest single recipient of Australian aid. Priority is given to law and order, health, education and training, renewable resources, infrastructure and the private sector. AusAID has allocated \$12 million towards equipment and technical assistance for law and justice sector support and more than \$25 million towards achieving a well managed correction service according to international norms, particularly those relating

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142 *ibid.*, pp. 833-834.

143 DFAT/AusAID, Transcript, p. 28.

144 DFAT/AusAID, Submission, p. 834.

145 Bureau of Democracy, Human Rights, and Labour, US Department of State, *Papua New Guinea Country Report on Human Rights Practices for 1997*, 30 January 1998, p. 1.

146 DFAT/AusAID, Submission, p. 834.

147 *ibid.*, pp. 834 and 863.

148 *ibid.*, p. 834.



to the human rights of prisoners. For the period 1993-1998, \$87 million has been allocated to improve the capability of the Constabulary to preserve order.<sup>149</sup>

4.122 More modest sums have been allocated to schemes such as support to Bougainville NGOs for conflict resolution and peace education (\$500,000) and for establishment of an NGO support scheme to promote sustainable development at community level (\$150,000).<sup>150</sup>

4.123 Amnesty International used the level of aid provided to Papua New Guinea to argue for an evaluation of the human rights dimensions of foreign aid. Despite Australian aid, including human rights training of the Constabulary and Defence Force, serious continuing human rights violations are said to be committed by the police in mainland Papua New Guinea and the Defence Force in Bougainville. Amnesty considered this highlighted the need to review the effectiveness of such training in promoting and protecting human rights. It also sought greater accountability through strengthening of human rights complaints mechanisms (including the Office of the Public Solicitor and a Human Rights Commission which can function effectively on Bougainville) but also through public awareness of human rights.<sup>151</sup>

4.124 During the major drought in Papua New Guinea, Australia undertook a major relief operation, with more than 3.6 million kilograms of supplies being delivered by the ADF, and the commitment of \$30 million specifically for drought relief (to March 1998).<sup>152</sup>

4.125 Much of Australia's focus is on Bougainville. Since 1991, AusAID has spent about \$15 million on aid to Bougainville. \$4 million was contributed to the Red Cross humanitarian aid program and in anticipation of the ceasefire agreement on 30 April 1998, Mr Downer announced that Australia would support reconstruction on Bougainville. He referred to his commitment in August 1997 for \$100 million over five years to assist in reconstruction and rehabilitation (to come from within the aid program with Papua New Guinea), in addition to the existing \$32.4 million commitment already made for Bougainville.<sup>153</sup>

4.126 In June 1998, Mr Downer referred to Australia's continuing role in Bougainville. That role involves, among other things, assistance in the training and equipping of auxiliary police. As part of a \$500,000 program to support efforts to re-establish civilian authority on Bougainville, an AusAID-funded auxiliary police trainer was working in Arawa.<sup>154</sup>

4.127 On 28 May 1998, Mr Downer asked this Committee to conduct an inquiry into progress in the Bougainville peace process, including Australia's support for the process, and to assess future prospects for the peace process.

## The Philippines

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149 Exhibit 12, op. cit., p. 1.

150 *ibid.*, p. 3.

151 Amnesty International, Submission, p. 695.

152 AusAID, 'PNG Drought Update', *Media Release*, Paper no. 22, 24 March 1998.

153 Minister for Foreign Affairs, *Media Release*, FA52, 28 April 1998.

154 Minister for Foreign Affairs, *Media Release* FA72, 3 June 1998.

4.128 The Philippines has an elected government and a free press. DFAT referred to its good track record on human rights generally and reported that claims of abuse are investigated by its Commission on Human Rights.<sup>155</sup>

4.129 The Australian Embassy in Manila conducts dialogue on human rights with the Philippines authorities and has made representations on individual cases, generally relating to fear of torture and disappearances.<sup>156</sup>

4.130 Australia's HREOC and the Philippines Commission on Human Rights cooperate extensively over national institutions and the Asia Pacific Regional Forum of National Human Rights Institutions. In 1996, HREOC invited the Chairman of the Commission to Australia, where she held discussions on human rights issues, including human rights training for military personnel in the Philippines and elsewhere in the region, with officers of DFAT and the Attorney-General's Department.<sup>157</sup>

4.131 Australia is funding projects in the Philippines aimed at improving the human rights of women and children. Funds of \$2,389,000 have been allocated over a three year period to strengthen the system of protecting children involved in exploitative or hazardous work, including basic services to abused child labourers and advocacy.<sup>158</sup>

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155 DFAT/AusAID, Submission, p. 835.

156 *ibid.*

157 *ibid.*

158 *ibid.*, p. 880.

## Republic of Korea

4.132 The people of the Republic of Korea elected Kim Dae Jung as President in free and fair elections in December 1997. DFAT reports that the ROK has a steadily improving human rights situation, but there are still some concerns.<sup>159</sup>

4.133 The National Security Law (NSL) was revised in December 1996 to enable the Agency for National Security Planning (ANSP) to investigate domestic organisations judged to be supporting the DPRK government. There are reports of some infringements of suspects' rights during interrogation by the ANSP. The definitions of espionage under the law are ambiguous, so that prosecutors have broad latitude to interpret the law and allow authorities to detain and/or arrest people whose acts are seen to support the DPRK.<sup>160</sup>

4.134 The US State Department report on human rights also referred to the vagueness of the law and the freedom this affords authorities. It stated that the UN Human Rights Committee had described the National Security Law as a 'major obstacle to the full realization of the rights enshrined in the International Covenant on Civil and Political Rights'. During 1997 over 300 dissidents were arrested under this law, mostly accused of undermining democracy by aiding North Korea.<sup>161</sup>

4.135 In Seoul, the Australian Embassy makes representations to the authorities on individual cases, including on the ill-treatment of trade union leaders and political detention. The Embassy also engages in frequent discussions with human rights groups, including the National Council of Churches of Korea and the Korea Church Centre for Human Rights. These groups have played a major role in promoting human rights in the ROK.<sup>162</sup>

## Sri Lanka

4.136 The human rights situation on the Jaffna Peninsula has deteriorated since 1996, following an attempt to assassinate a government minister and an attack on a Sri Lankan Army Base by Liberation Tigers of Tamil Eelam (LTTE). Some improvements occurred in early 1997, but reports of disappearances from the custody of the government security forces continue. On the other hand, the LTTE has been condemned for executing moderate politicians, conducting terrorist attacks on civilian targets, torture, abduction and arbitrary detentions. The United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions visited Sri Lanka in August 1997, at the invitation of the government.<sup>163</sup>

4.137 In May 1998, Olara Otunnuhe, a special representative of UN Secretary General visited Sri Lanka, during which time there was a shortlived ceasefire by the LTTE to facilitate his visit to areas of conflict.<sup>164</sup> One of the reasons for the visit was to examine the

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159 *ibid.*, p. 835.

160 *ibid.*, p. 836

161 Bureau of Democracy, Human Rights, and Labor, US Department of State, *Republic of Korea Report on Human Rights Practices for 1997*, 30 January 1998, p. 2.

162 DFAT/AusAID, Submission, p. 836.

163 *ibid.*, pp. 836-837.

164 AAP and Reuters reports, 6 and 7 May 1998.

plight of conscripted Tamil children which the LTTE was accused of using as suicide bombers and front-line combatants.<sup>165</sup>

4.138 The latest US State Department report on human rights noted that the Sri Lankan government generally respected the human rights of citizens in areas not affected by the conflict with the LTTE. The report stated that the war with the LTTE was accompanied by serious human rights abuses by the security forces who committed as many as 100 extrajudicial killings. Over 100 individuals disappeared from security forces' custody during the year. Torture is a serious problem and prison conditions are poor. In most cases of extrajudicial killing and disappearance, no progress was made, or there was no investigation or prosecution at all.<sup>166</sup>

4.139 Both the government and LTTE apparently killed prisoners taken in battle. Pro-government Tamil militants committed extrajudicial killings and were responsible for disappearances, torture, detentions and forced conscription. The LTTE attacked civilians and international shipping, committed regular extrajudicial killings, and denied people under its authority the right to change their government, violated their civil liberties, and severely discriminated against ethnic and religious minorities.<sup>167</sup>

4.140 The Australian government condemns unequivocally all acts of violence which kill and maim innocent civilians. Australia seeks an early, peaceful, negotiated settlement which takes account of the legitimate aspirations of all communities. In July 1997 Mr Downer visited Sri Lanka and, in meetings with the Sri Lankan Foreign Minister, urged respect for human rights, indicating the concern of Australia and the international community at abuses by the military.<sup>168</sup> Mr Downer stated that Australia would be prepared to provide third party mediation provided that both parties were receptive, however, the offer has not been taken up.<sup>169</sup>

4.141 DFAT reported general representations to the Sri Lankan government essentially on behalf of civilians who have been caught up in military operations. The department was also mindful that various Tamil insurgents have committed significant human rights violations.<sup>170</sup> In March 1998, DFAT reported some reduction in the number of disappearances and cases of torture. In the Vanni area, in the north of the country there was ongoing conflict, with a resulting impact on the civilian population. In the east of the country there were instances of torture and beatings in detention by both the government and Tamil Tigers.<sup>171</sup>

4.142 Establishment of the Sri Lankan Human Rights Commission is a positive development. The Commission participated in the Second Asia Pacific Workshop in New Delhi and, after that Workshop, Australia's Human Rights Commissioner Sidoti held

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165 *ibid.*

166 Bureau of Democracy, Human Rights, and Labor, US Department of State, *Sri Lanka Country Report on Human Rights Practices for 1997*, 30 January 1998, pp. 1-2.

167 *ibid.*

168 DFAT/AusAID, Submission, p. 837.

169 DFAT/AusAID, Transcript, p. 296.

170 *ibid.*, p. 28.

171 *ibid.*, pp. 295-296.

discussions with the Commission and other Sri Lankan human rights institutions in Sri Lanka.<sup>172</sup>

4.143 Australia is one of the largest foreign investors in Sri Lanka and has approximately \$400 million invested there. Those (such as the Australian Human Rights Foundation) who urge a stronger stance by Australia over the Sri Lankan government's disregard for human rights, suggest that economic considerations have been awarded a higher priority than human rights by the Australian government.<sup>173</sup>

## Vietnam

4.144 Significant human rights concerns still exist in Vietnam, although the quality of life of most Vietnamese has improved. DFAT reported detention of individuals for the peaceful expression of their political and religious beliefs, and increasing imposition of the death penalty, including for such crimes as corruption and drug smuggling.<sup>174</sup>

4.145 The Vietnamese government's record on human rights was described as 'poor' by the US State Department. It reported repression of basic political, and some religious freedoms, and numerous abuses, arbitrary detention and arrest and denial of fair and expeditious trials. There are severe restrictions on speech, assembly and association. In 1997 there were no known politically motivated extrajudicial killings, no reports of politically motivated disappearances and no known reports of torture of detainees.<sup>175</sup>

4.146 Following a visit to Vietnam by the Australian Parliamentary Consultative Delegation in 1995, the two countries have developed the dialogue on human rights that was begun then into new areas of practical cooperation in training and institution building.<sup>176</sup> Before his visit to Vietnam in April 1998, Mr Downer referred to the expanding relationship between Vietnam and Australia, with security dialogue and human rights dialogue being important features.<sup>177</sup>

4.147 Mr Downer has raised human rights concerns, including the cases of individuals detained for non-violent expressions of dissent, with the Vietnamese Foreign Minister. The Vietnamese government has provided information on a number of cases raised by the Minister. The Australian Embassy in Hanoi makes representations about individual cases and the Australia-Vietnam Senior Officials' Talks in May 1997 provided the opportunity for further human rights dialogue. During the talks, possible projects in institution building were discussed.<sup>178</sup>

4.148 DFAT suggested the bilateral dialogue with Vietnam was facilitated by a course on human rights and international law at the Vietnam Research Centre for Human Rights in Hanoi in May 1997. The two week course was funded by AusAID and organised jointly by the Research Centre and Professor Alice Tay (formerly of the Centre for Asian and Pacific

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172 DFAT/AusAID, Submission, p. 863.

173 Australian Human Rights Foundation, Submission, p. 274.

174 DFAT/AusAID, Submission, p. 837.

175 Bureau of Democracy, Human Rights, and Labor, US Department of State, *Vietnam Country Report on Human Rights Practices for 1997*, pp. 1-2.

176 DFAT/AusAID, Submission, p. 837.

177 Minister for Foreign Affairs, *Media Release*, FA46, 22 April 1998.

178 DFAT/AusAID, Submission, pp. 837-838.

Law at the University of Sydney and now President of HREOC). The course was for high-level Vietnamese government officials and covered international mechanisms for the protection of human rights, regional arrangements, and the application of human rights in Australia and in other legal systems. DFAT considered the issue of a press release at the end of the course, specifically referring to training on human rights issues, was valuable public recognition in Vietnam of the benefit of Australia's dialogue with Vietnam on human rights issues. The course was followed by a study tour to Australia by the Head of the Research Centre and some course participants, who inspected Australian human rights institutions.<sup>179</sup>

4.149 The Human Rights Fund administered by DFAT and AusAID has provided a library of human rights resources for the Vietnamese Ministry of Foreign Affairs and dialogue with other relevant parts of the Vietnamese government is promoted. The Australian International Legal Cooperation program also contributes to dialogue by facilitating greater understanding of legal systems and institutions between Australia and Vietnam, Cambodia and Laos. AusAID's Ministry of Justice legal assistance project provides training for officials in legal English and principles of international law.<sup>180</sup>

4.150 DFAT considers that our dialogue on human rights is enhanced by the aid program. Australian aid to Vietnam for 1997-98 is expected to be \$66 million, making Vietnam the third largest recipient of Australian aid in that time. Assistance is also provided through education and training, some of which is targeted at senior government officials. DFAT acknowledges the important role of Australian NGOs. AusAID supports forty NGO projects, focusing on health, income generation and environmental management.<sup>181</sup> Following the 1998-99 budget, AusAID announced the commencement of a four year pledge of \$236 million assistance to Vietnam, in recognition of the continuing challenges posed by the economic crisis.<sup>182</sup>

4.151 The Committee welcomes the kinds of joint human rights initiatives which have begun in respect of Vietnam. The Committee recommends that:

**10. Consideration be given by the Australian government to the possibility of using the human rights initiatives undertaken in Vietnam as a model for use in programs with other countries in the region.**

## General

4.152 Evidence was not provided on specific activities in each country in the Asia Pacific, particularly the countries of the South Pacific. However, in the course of the inquiry, general comments were made which the Committee considers should be noted. The Committee has commented previously on ratification of human rights treaties among the Pacific island states.

## Illegal immigrants in Malaysia

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179 *ibid.*, p. 838.

180 *ibid.*, pp. 838-839.

181 DFAT, 'Australia-Vietnam Relations', *Vietnam Brief*, 1998.

182 AusAID, *Media Release*, AA35, 12 May 1998.

4.153 Some media attention was given to the treatment of Indonesian workers, including illegal immigrants, who were removed from Malaysia during the course of the Asian economic crisis. DFAT reported that this situation was being monitored and that negotiations were being conducted between Malaysia and Indonesia over the repatriation process. DFAT had asked its posts in those countries to report back so that Australia could have discussions with the governments of Malaysia and Indonesia and relevant international agencies.<sup>183</sup> The Department of Immigration and Multicultural Affairs also reported that it was monitoring the situation.<sup>184</sup>

### **Thailand assistance**

4.154 Australia's relationship with Thailand is a friendly one, with regular dialogue on economic, defence and political matters. Australian aid to Thailand in 1996-97 was \$26.3 million, and, in August 1997, the Australian government committed itself to assisting in the IMF economic package to Thailand.<sup>185</sup> Between 1993-1997, AusAID provided \$4,413,600 to local NGOs to assist disadvantaged groups, particularly women, by encouraging their participation in economic and social development.<sup>186</sup>

4.155 In January 1998, Mr Downer announced a further \$1 million in humanitarian relief to Burmese refugees in camps on the Thailand-Burma border, with funds being provided through AusAID's humanitarian relief program. The Minister stated that the government was conscious of the burdens placed on Thailand by the refugees and was helping to share the burden of relief.<sup>187</sup>

4.156 The Committee acknowledges the strong relationship between Thailand and Australia. The Committee recommends that:

**11. The Australian government give consideration to including dialogue on human rights issues in its dialogue with Thailand, and in development assistance provided to Thailand.**

### **South Pacific assistance**

4.157 In the South Pacific, AusAID has extensive commitments, with a human rights component. These include a \$3 million project, the South Pacific Media Initiative, which aims to support regional media bodies and institutions to conduct training and community-level approaches in media skills<sup>188</sup> and \$1.25 million towards the construction of permanent headquarters for the South Pacific Regional Environment Program in Samoa.<sup>189</sup>

4.158 Legal and parliamentary institutions are a focus for initiatives of more than \$5 million which are planned to assist in improvements in court administration and building in Tonga, \$365,000 for legislative drafting assistance in Tuvalu, and \$400,000 for assistance to three legal institutions and strengthening of the legal sector of Vanuatu. A Parliamentary

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183 DFAT/AusAID, Transcript, p. 278.

184 DIMA, Transcript, p. 345.

185 DFAT, 'Australia-Thailand Relations', *Thailand Brief*, January 1998.

186 Exhibit 12, op. cit., p. 3.

187 Minister for Foreign Affairs, *Media Release*, FA1, January 1998.

188 Exhibit 12, op. cit., p. 2.

189 AusAID, *Media Release*, AA24, 7 April 1998.

conference system in Samoa was provided with \$400,000 in 1996-97, with the aim of enhancing access by the Samoan people to parliamentary processes.<sup>190</sup> Support for drafting changes to the Fiji Constitution (\$475,800), and for strengthening the institution and improving training within the Fiji Police Academy (\$2,333,000) was also committed.<sup>191</sup>

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190 Exhibit 12, op. cit., p. 3.

191 Exhibit 12, op. cit., p. 1.