

Parliamentary Participation and Oversight

Current Level of Engagement

Australia – China Human Rights Dialogue

- 2.1 The Australian delegation to the Australia-China dialogue has included parliamentary representatives on the following occasions:
 - 1999: Mr Peter Nugent MP;
 - 2000: Dr Andrew Southcott MP and Senator Vicki Bourne;
 - 2002: Senator Marise Payne and Mr Bernie Ripoll MP;
 - 2004: Senator Marise Payne.¹
- 2.2 Following his participation in the 1999 dialogue, Mr Nugent presented a delegation report to the Parliament.²
- 2.3 There has been a number of other occasions when members have been invited to attend the Australia-China dialogue, but have been unable to participate due to other commitments or short notice.³
- 2.4 In addition to individual parliamentarians' participation in the dialogues, Chinese delegates to the 1998 and 2000 rounds of the dialogue met with members of the Parliament's JSCFADT.⁴
- 2.5 Australian parliamentarians have also been invited to attend the official reception held for each of the three rounds of dialogues in Australia.⁵

1 Submission no. 17, DFAT, p. 7

2 House Hansard, Monday, 18 October 1999, p. 987

3 Submission no. 17, DFAT, p. 7

4 Submission no. 17, DFAT, p. 7

Australia – Vietnam and Australia – Iran Dialogues

2.6 To date there has not been any parliamentary participation in the dialogues with Vietnam and Iran.⁶

Oral Briefings from DFAT

2.7 DFAT provides oral briefings on the dialogues to the JSCFADT and individual parliamentarians on request.⁷

Issues and Conclusions

2.8 A number of written submissions to the inquiry recommended that there be a higher level of parliamentary engagement in the human rights dialogues in order to ensure greater transparency, accountability and credibility in the process. Suggestions to make the process more formal and less ad-hoc include:

- that the Human Rights Sub-Committee review the progress and conduct of the human rights dialogues on an annual basis;⁸
- that the Minister for Foreign Affairs table a report in the Parliament at the conclusion of each dialogue session or on an annual basis, and/or this report be referred to the JSCFADT or Human Rights Sub-Committee for review (at the moment there is no formal reporting requirement in place);⁹
- that Australian parliamentarians and/or members of the Human Rights Sub-Committee participate in all Australian delegations to human rights dialogue sessions and report their findings to the Human Rights Sub-Committee;¹⁰
- that DFAT report regularly to the JSCFADT on the human rights dialogues, rather than upon request as is the present case;¹¹ and

5 Submission no. 17, DFAT, p. 7

6 Submission no. 17, DFAT, p. 7

7 Submission no. 17, DFAT, p. 7

8 Submission no. 11, Name withheld, p. 3

9 Submission no. 2, Human Rights Council of Australia, p. 3, Submission no. 3, Mr John Greenwell, p. 6, Submission no. 4, Australian Baha'i Community, p. 2, Submission no. 6, ACFID, p. 6, Submission no. 7, International Commission of Jurists, p. 2, & Submission no. 8, Amnesty, p. 9

10 Submission no. 6, ACFID, p. 6 & Submission no.10, & Falun Dafa Association, p.16

11 Submission no. 15, Vietnamese Community in Australia, p. 4 & Submission no. 14, HREOC, p. 5

- that dialogue partner delegations include their own parliamentary representatives.¹²
- 2.9 The Committee explored all of these issues at the public hearing.
- 2.10 The suggestion to establish a means of formal reporting on the dialogues to the Parliament, either by the Minister for Foreign Affairs, or via the Human Rights Sub-Committee, is addressed in Chapter 5 which deals with the reporting requirements and mechanisms of the dialogue process.
- 2.11 In terms of the other evidence received on parliamentary participation and oversight matters, the Committee focused its questioning on two areas: the inclusion of dialogue partners' parliamentary representatives in their delegations; and formalising Australian parliamentary participation in the dialogues.

Foreign Parliamentarian Participation

- 2.12 At the hearing, the Committee wished to learn to what extent parliamentarians from Australia's dialogue partners, China, Vietnam and Iran, had participated in the rounds of talks and/or been invited to do so.
- 2.13 HREOC told the Committee that:
 "..*[it]* was not aware of any foreign parliamentarians being involved *[in the dialogues]*."¹³
- 2.14 Later in the hearing, HREOC noted that the delegation visit to Australia from the Islamic Human Rights Commission of Iran (IHRC) which followed the first Australia-Iran human rights dialogue in Tehran in 2002, had been led by a member of parliament.¹⁴
- 2.15 DFAT noted that while it had not suggested to dialogue partners that they invite their own parliamentary representatives to take part in the talks, in the case of China at least, there had been other "coincidental parliamentary involvement:"
 "We have visited China a couple of times and called on the legislative affairs committee of the Parliament, which is the committee that actually drafts the legislation that is placed before the committee."¹⁵

12 Submission no. 14, HREOC, p. 5

13 Official Transcript of Evidence, HREOC, p. 21

14 Official Transcript of Evidence, HREOC, page 28

15 Official Transcript of Evidence, DFAT, page 42

- 2.16 The Human Rights Sub-Committee believes that it is as important for delegations from the dialogue partner countries to include parliamentary representatives as it is for the Australian delegations. For that reason, the Committee would like to see DFAT encourage China, Vietnam and Iran to invite parliamentary representatives to participate in future rounds of the bilateral human rights dialogues.

Recommendation 1

The Committee recommends that the Government encourage dialogue partners to include parliamentary representatives from their own countries to participate in future rounds of the bilateral human rights dialogues.

Australian Parliamentary Participation

- 2.17 At the hearing, the Committee asked the Australian Council for International Development (ACFID) to expand on the degree of parliamentary participation it would wish to see in the future. ACFID responded that while it appreciated that parliamentarians had participated in some of the dialogues, this had been on an ad-hoc basis and the process needed to be formalised:

“We would like to see something that is formalised institutionally, such as that there would always be a member of this Committee, as well as an open invitation to other parliamentarians to be part of those dialogue processes, specifically as observers and as active participants if they felt equipped to do that.”¹⁶

- 2.18 Further to ACFID’s comments on the ad-hoc nature of parliamentary participation in the dialogues to-date, the Chair remarked on the timing and financial factors that inhibit members’ participation in all dialogues:

“At the moment it depends on whether someone is available, occasionally at quite short notice and during a parliamentary sitting period, which is difficult, and during elections...and if [parliamentarians] have enough capacity in their own personal or study leave entitlements to get themselves there.”¹⁷

16 Official Transcript of Evidence, ACFID, p. 9

17 Official Transcript of Evidence, Chair, p. 42

- 2.19 The Committee acknowledged the Foreign Minister's support for parliamentary participation in the dialogues, but wished to know whether any consideration had been given to formalising that support. The Department said that it welcomed suggestions from the Committee in this regard.¹⁸
- 2.20 The Committee believes that the Government should formalise Australian parliamentarians' participation in and oversight of the dialogues in the following ways:
- 2.21 First, a formal invitation to join the Australian delegation of each human rights dialogue should be extended to one or more Government and non-Government parties' members alike. The parliamentary representatives might be nominated by party leaders or by the Minister for Foreign Affairs. To facilitate members' availability, the invitations should be made as far in advance of the dialogues taking place as is possible.
- 2.22 Secondly, in light of the observations made in 2.18, official delegation status should be conferred on the nominated parliamentarians.
- 2.23 Lastly, DFAT should be required to provide a regular private briefing on the status of the dialogues to the Committee. The Committee and DFAT should determine whether it is more appropriate for such a briefing to be provided both before and after each dialogue or, on an annual or biannual basis.

18 Official Transcript of Evidence, DFAT, p. 42

Recommendation 2

The Committee recommends that the participation in and oversight of the bilateral human rights dialogues by Australian parliamentarians be fully supported and formalised by:

- (a) party leaders or the Minister for Foreign Affairs nominating one or more parliamentarians from the Government and non-Government parties to attend each dialogue**
- (b) conferring official delegation status on the nominated parliamentarians; and**
- (c) the Department of Foreign Affairs and Trade providing regular private briefings to the Human Rights Sub-Committee on the status of each of Australia's dialogues with China, Vietnam and Iran.**

Lists of Individual Cases of Concern

2.24 At the hearing, the Committee expressed its appreciation at recently being able to obtain from DFAT, on a confidential basis, the lists of individual cases of concern that the Department maintains for raising with its counterparts at the dialogues. The Committee enquired whether these lists might be made available to it on a regular, perhaps annual, basis. DFAT confirmed that the Department would be happy to provide members with that material on request.¹⁹

19 Official Transcript of Evidence, DFAT, p. 46