

**JOINT COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND
TRADE**

**INQUIRY INTO AUSTRALIA'S HUMAN RIGHTS DIALOGUE
PROCESS**

A submission by the Human Rights Council of Australia Inc
May 2004

This brief submission focuses on the role of Australia's development cooperation with relation to the Australia-China human rights dialogue.

The Human Rights Council of Australia is a private non-government organization which promotes understanding of and respect for human rights for all persons without discrimination through adherence to the International Bill of Rights and other human rights instruments, internationally and within Australia. While the Council has been heavily involved in the formulation of the so-called 'human rights approach to development', it has no special expertise on the status of development assistance to China. Others have carried out useful analyses of donor policies relating to China and the Council would like to refer the Committee to the attached contribution by Sophia Woodman¹.

The current high level dialogue on human rights between China and Australia was formally inaugurated at a meeting between the Australian Prime Minister and the Chinese Premier in early 1997. Although, informal talks on human rights had taken place since the early 1990's this was the first time that the exchanges were put on a formal footing; the impetus for placing the dialogue on this footing came from both parties; the Chinese Government used the proposal to demonstrate its commitment to human rights in order to prevent a vote condemning its human rights record at the UN Commission on Human Rights and Australia saw the dialogue as a means to develop a closer relationship with China with the expectation that economic ties might be strengthened.

The fact that this rationale remains the principal motivation for the dialogue is reflected in the wording of the terms of reference of the current inquiry: "The aim of the dialogue is to hold frank and constructive discussions to demonstrate the commitment of both countries *to the talks* (emphasis added) and the overall strength of the bilateral ties with Australia". The emphasis seems to be on the dialogue *per se* rather than on its impact on the human rights situation in China – and, indeed, in Australia.

¹ See attachment, "Bilateral Aid to Improve Human Rights" by Sophia Woodman in *China Perspectives*, No 51 January-February 2004

Has the human rights dialogue had an impact, either positive or negative? Have the lives of individuals been improved through “institutional strengthening, policy development, research, training and administrative resources in the human rights field?”² The responsibility for these lies with AusAID while HREOC is principally charged with their implementation.

It should be acknowledged at the outset that China has taken a number of steps to improve human rights in the country since the Tienanmen Massacre. The fact that many of these have often coincided with session of the UN Commission on Human Rights and the threat of a resolution condemning it for abuses, does not detract from the positive impact of some of the changes. The number of arbitrary detentions has diminished, China has become a party to the International Covenant on Economic, Social and Cultural Rights, the Constitution has been amended to include respect for human rights, efforts are to be undertaken to publicize the implications of the Constitutional change, a number of long-term political prisoners have been released, there have been prosecutions of officials accused of torturing prisoners and there is a field presence by the Office of the High Commissioner for Human Rights.

Unfortunately, human rights abuses remain pervasive. Freedom of speech is restricted through the prosecution of people critical of government policies including those posting comments on the Internet, political and religious dissidents are regularly imprisoned after unfair trials, workers’ rights are inadequately protected, the use of torture and the death penalty remain widespread and there are considerable dangers for civil society organizations who elect to work on human rights issues.

What is clear is that most positive steps have followed the possibility of condemnation in public international forums. This demonstrates that international pressure is essential to bring about change. The Human Rights Council is not arguing here that only condemnation is required but rather that Australia should change from its stance of complete silence to a more measured strategy for the promotion of human rights in China.

In this context, the Council has argued for some time that there is a lack of clarity in AusAID’s general policy on human rights and for the adoption by AusAID of a human rights approach to development cooperation³. It is unfortunate, therefore, that the human rights objectives of the dialogue with China are not spelt out in AusAID’s country strategy despite a reference to “good governance” which in this case clearly refers to the conditions for a transition to an efficient market economy. Even within HREOC’s projects for the improvement of the criminal justice and legal systems, it is clear that the focus is on a system that facilitates trade and the protection of the contracts with firms investing in China.

The amount allocated to HREOC out of the budget for the aid program to China is less than 2% which reflects the relative priority given to human rights by the Government in its relations with China.

In the main, the majority of HREOC’s efforts are directed towards the training of selected individuals brought to Australia for exposure programs together with

² DFAT, “Human Rights:Australia-China Human Rights Technical Assistance Program” September 1999

³ See “Working Together”, a report of the International Conference on a Human Rights Approach to Development Cooperation, SIDA, 2000

workshops on reporting under human rights treaties and other human rights subjects. The selection of these individuals is neither representative nor transparent with most being government officials or academics. Having participated in some of these exposures, the Human Rights Council of Australia did not gain the impression that the participants were challenged in any way and is not confident that their future activities would have a great deal of influence on either policy or practice.

As stated above the Council is not in a position to comment directly on the impact of the dialogue and of the human rights projects in China. However, some general recommendations are in order.

1. AusAID should be tasked with formulating clear human rights objectives for its development cooperation program in China
2. An annual report on the implementation of these objectives should be tabled in Parliament
3. The emphasis on training programs should be shifted from bringing selected individuals to Australia towards in-country training.
4. The dialogue should focus on jointly identifying civil society organizations in China that would benefit from support
5. The Government, in collaboration with China experts and NGOs, should formulate a clear human rights strategy that includes judicious use of forms of international pressure