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Australia's 'Limited Engagement' Initiatives

Engagement was seen — somewhat controversially at the time — as a means by which Australia might influence a receptive Myanmar Government, albeit it a military regime internationally held in ill repute. What was most significant was that Australian assistance initiatives were to be carried out on a government-to-government basis. Australian Foreign Minister Alexander Downer had first set out his policy of 'engagement' with Burma on human rights in an article in the *International Herald Tribune* on 23 August 1999.¹ In a very persuasive way, he said:

Australia believes that now is the time to engage the regime in a serious dialogue on the protection and promotion of human rights in Burma. Such a dialogue is one way of improving the lot of ordinary Burmese. It is also a means of drawing the regime into a discussion on issues that have caused great concern outside Burma. To do nothing is to fail to confront the problem.

Alexander Downer had come up with the idea of enlisting the support of Australia's then Human Rights Commissioner Chris Sidoti to develop a program of human rights capacity building, to prepare the way for the eventual establishment of a national human rights institution

¹ Alexander Downer, 'A Start to Help Set Burmese on the Road to Human Rights', *International Herald Tribune*, 23 August 1999.

complying with international norms, something that was at that time unthinkable for an international community strongly committed to sanctions against the pariah military regime.

Foreign Minister Downer responded to Myanmar's membership of ASEAN and met his counterpart, SLORC Foreign Minister Ohn Gyaw, on 26 July 1997 at the first ASEAN Regional Forum attended by Myanmar. Downer continued to meet Ohn Gyaw — and his successor U Win Aung — at these meetings from time to time. In order to explore the parameters of possible cooperation between Australia and Myanmar in the area of human rights, Chris Sidoti visited Myanmar in August 1999. According to the media release issued in Sidoti's name: 'The principal purpose of the visit was to discuss with officials of the Government of Myanmar the nature, roles and functions of independent national human rights institutions established in accordance with the relevant international standards, the "Paris Principles".'² According to Sidoti, in his preliminary discussion with Home Affairs Minister Tin Hlaing, and subsequently with SPDC Secretary One Lieutenant-General Khin Nyunt, the Myanmar leadership indicated that it understood exactly the significance of this initiative and its ground-breaking nature, both for the military regime and for the international community. They went into the program fully conscious of the undertakings they were entering into, and of the desirability of bringing around Aung San Suu Kyi.³ Eventually, it was agreed that this might be achieved by conducting a series of workshops for Myanmar Government bureaucrats and law enforcement officials. This decision was strongly criticised by the Australian Labor Party, supporters of the Burmese democracy movement in Australia, and (in private) by some foreign governments — but not by United Nations representatives, who strongly backed the initiative and took opportunities to demonstrate their support through public statements and by observing some of the workshops.⁴

2 Sidoti summarised the outcomes of his visit in a media release, in which he noted 'that an exchange of views on human rights has begun where none existed before; that we have been able to identify some areas in which cooperation may be possible; and that there is evidently a strong commitment to taking the process further.' The media release issued on 5 August 1999 can be accessed at www.humanrights.gov.au/.

3 Personal interview with Chris Sidoti, 18 November 2014.

4 On 28 June 2000, the then ALP Shadow Foreign Minister Laurie Brereton called for the program to be cancelled. See www.burmalibrary.org/reg.burma/archives/200007/msg00015.html.

Alexander Downer had occasion to vigorously defend his initiative in August 2000, saying:

Our approach to Burma arose from the repeated failure of other approaches to improve the political and human rights situation there. The Human Rights training program has not only helped educate Burmese officials in basic human rights, but we have also contributed to Burma agreeing to establish an independent Human Rights Commission based on the Paris Principles, and using Indonesia's KOMNAS HAM as a model. These are the only positive developments in human rights in Burma over the past decade.⁵

By 2001, Alexander Downer went as far as saying he detected 'signs of movement' in the democratic process: 'We take the view that some sort of engagement with them is better than none. We have been trying to explore ways we can engage without engaging too warmly.'⁶ Myanmar Government representatives were sounded out on whether they were interested in modest engagement initiatives directly targeting areas for reform. When they responded positively, as they generally did, this certainly opened the way for significant communication space with different arms of the Myanmar Government. Sidoti confirms that the SPDC fulfilled all the undertakings they made to him as Alexander Downer's representative.

Trust building through the Ministry of Home Affairs

The Australian Government's cooperation on human rights training with the Ministry of Home Affairs was certainly an example of trying to build trust through a responsive government agency and its leading individuals. The then Minister for Home Affairs, retired Colonel Tin Hlaing, was a close associate of Lieutenant-General Khin Nyunt, was one of the longer serving military ministers, and as the minister responsible for internal security and therefore (notionally at least) in charge of police and prisons, was at that time in a position of great trust. Tin Hlaing had been designated Chairman of the Myanmar Human Rights Committee, a government-run body that was openly

5 See foreignminister.gov.au/releases/2000/fa096_2000.html.

6 'Australian FM detects signs of movement from Myanmar', AFP, 24 July 2001.

envisaged as eventually being the precursor of an independent human rights commission under the Paris Principles for such bodies endorsed by the UN Human Rights Commission and the UN General Assembly.⁷ So successful was this relatively modest exercise that the Australian Government had planned to launch a second, more intensive phase of the program in June 2003, but this was suspended because of the attack upon Aung San Suu Kyi and the NLD on 30 May 2003.

Interestingly, one of the more responsive organisations within the Ministry of Home Affairs was the Myanmar Police Force (MPF), whose International Division was quite well informed about international law enforcement issues ranging from human rights protection to counter-narcotics programs and people trafficking. Australia was not the only country engaging in direct cooperation with the MPF — the United Nations, the United States, and Japan also had specific law enforcement assistance programs — but Australia went further in treating Myanmar as a ‘normal’ jurisdiction that needed to conform with international norms. This went as far as inviting senior MPF officers, including the Director-General (or Chief of Police, Army Brigadier-General Soe Win), to visit Australia. There is no doubt at all that this was deeply appreciated by the MPF, who repeatedly displayed a highly cooperative and responsive attitude to proposals from the AFP. Australia’s wholehearted cooperation with the MPF undoubtedly contributed to the MPF’s ongoing commitment to improving Myanmar’s conformity with international law enforcement norms across the board, but especially in reducing people trafficking, narcotics trafficking, and institutional discrimination against HIV/AIDS sufferers.

7 See the section on ‘Burma and Cambodia’ in the DFAT Annual Report for 2000–01 which stated: ‘Work on Mr Downer’s Human Rights Institution initiative proceeded smoothly, with the first human rights training workshops held in July and October 2000. The workshops exposed middle-ranking Burmese civil servants to international human rights concepts, instruments and standards. An assessment by the workshop convenors concluded that the workshops had achieved their objectives, which included raising awareness of international human rights standards and obligations among Burmese officials and providing an opportunity for the Burmese participants to discuss human rights issues in an open manner.’

Acknowledging human rights abuses

At the government-to-government level, the Australian Government was extended considerable latitude in carrying out its controversial human rights training program with the Ministry of Home Affairs. Australian requests to carry out activities under the program were invariably approved, and the authorities studiously avoided interfering in the conduct of the training workshops, even though they were fully aware of the scope of the discussions and the extent to which Myanmar's human rights record was directly and indirectly challenged.⁸ From the outset, Australia's human rights training program was a magnet for criticism of Australia, which had hoped that its limited engagement with the military regime could bring real results. This criticism came from Burmese activists and their supporters in Australia, who were never silent when it came to expressing their views and finding an opportunity to attack the military regime. Soon after the start of the program, Australian human rights lawyers (who were providing the training through the Castan Centre at Monash University) became targets for critical media commentary. Craig Skehan's September 2000 article in *The Age*, entitled 'Australian Rights Lawyers Under Fire on Burma', was fairly typical. Skehan wrote:

Critics say the seminars are being used to pretend there is a willingness to reform while at the same time intensifying repression of dissent, including a crackdown this week on democracy leader Aung San Suu Kyi.⁹

Leader of the program, Professor David Kinley, was quoted as saying:

The Burmese may be acting cynically, but I think there is at least a possibility of change ... And I don't think these seminars in themselves are going to make the regime more palatable.

8 See a case study of the program by David Kinley and the author, 'Engaging a Pariah: Human Rights Training in Burma/Myanmar', *Human Rights Quarterly*, Vol. 29, No. 2, 2007. pp. 368–402.

9 Craig Skehan, 'Australian Rights Lawyers Under Fire on Burma', *The Age*, 6 September 2000.

Australia's human rights initiative was raised directly by Alexander Downer when he visited Myanmar in 2002. The US Embassy's report on a briefing I gave to like-minded ambassadors appeared in Wikileaks documents in 2012.¹⁰

From the beginning of 2000, the Australian Federal Police were able to develop satisfactory cooperation with the Ministry for Home Affairs and the Myanmar Police Force on anti-narcotics activity, and later on other areas of transnational crime, including people trafficking. Initially, capacity building training was focused on narcotics emanating from Burma.¹¹ Training was gradually extended to money laundering and people trafficking (the AFP's Southeast Asia regional program was for several years based in Yangon). One outcome regularly recognised in AFP public reporting was the decline in heroin production in Burma (the source of the bulk of Australia's illegal trafficking), which was in the view of the AFP attributable to the cooperation and trust developed with their counterparts. Australian (as well as US) anti-narcotics programs were implemented with what appeared to be full commitment and cooperation on the part of the Myanmar law enforcement authorities, despite the inherent sensitivity of some areas where SPDC authorities were sometimes under severe criticism (from the Burma lobby overseas, from conservative elements in the United States, and from certain circles in Thailand).

Law enforcement cooperation was extended to money laundering, and here the pattern of behaviour on the Myanmar side was similar, with Myanmar eventually being removed from the Financial Action Task Force black list of non-cooperating countries.¹² Australia was among

10 See cable 02rangoon1293, 'Downer Pushes Reform During Visit To Rangoon', October 2002. Available at wikileaks.org/plusd/cables/02RANGOON1293_a.html.

11 The AFP Annual Report for 2000–01 stated: 'The liaison officer in Yangon has forged an effective working relationship with the Burma Police and has provided vital intelligence and assistance to recent AFP offshore operations. Following the seizure of 357 kg of heroin in Fiji in October 2000, Burma authorities reacted to information provided by the AFP that led to the apprehension of the alleged organisers of the Fiji shipment. Through joint cooperation efforts the liaison officer and Burma police identified a second heroin shipment to Vanuatu, resulting in an additional offshore joint operation by the AFP with Vanuatu Police. The liaison officer in Yangon is also contributing to enhancing the law enforcement relations in the region, particularly between Burma and Thailand.'

12 This author's case study of the effectiveness of cooperation combined with compliance enforcement is in 'The Use of Normative Processes to Achieve Behaviour Change in Myanmar', in Nick Cheesman, Monique Skidmore and Trevor Wilson (eds), *Ruling Myanmar From Cyclone Nargis to National Elections*, Singapore: ISEAS Publications, 2010.

several Western donors urging the SPDC to introduce anti-money laundering laws. From Myanmar's point of view, there was no reason to hesitate. As it happened, the head of the Asia-Pacific regional group on money laundering at the time was an Australian, who visited Yangon to encourage the regime to take this step.

In another significant development, in July 2002 the Australian Government was successful in securing Myanmar Government agreement to carry out an assistance program to achieve harm reduction amongst intravenous drug users with HIV/AIDS. Such programs were controversial in many countries, even in Australia, and the Myanmar authorities approach to its own drug abusers was never especially tolerant or enlightened. But it was Ministry of Home Affairs officials, mainly key police officers in the Myanmar Police Force, who saw the value of such a program and were prepared to contemplate the 'harm reduction' program, which trialled needle exchanges for intravenous drug-users with HIV/AIDS. The program was launched at a press conference in Rangoon in July 2002.¹³

Subsequently, a major milestone in Australia's relations with Myanmar between 2000 and 2003 was Foreign Minister Alexander Downer's visit to Myanmar in October 2002, the first such visit in 19 years. The Japanese Foreign Minister, Yoriko Kawaguchi, was just ahead of him, visiting in August 2002. Not for the first time did Australian and Japanese policy approaches to Myanmar seem rather similar. Naturally, Downer was determined to meet both the head of state, Senior General Than Shwe, as well as Aung San Suu Kyi, who had been released from house arrest in May 2002. This was tantamount to officially recognising Aung San Suu Kyi as Leader of the Opposition, something the military regime did not explicitly do, although their behaviour towards her connoted as much. There was never much doubt that the regime would tolerate a meeting between Downer and Suu Kyi, as they had already allowed Foreign Minister Kawaguchi to meet her. From the regime's perspective, to receive a visit by a foreign minister from a government which had hitherto imposed sanctions on most government-to-government dealings was itself a point in their favour in terms of public perceptions.

13 Australian Embassy Rangoon Press Release, 5 July 2002.

Alexander Downer's personal expectations of the visit were quite modest and seemed realistic. Downer had explained the thinking behind his visit to Mark Baker of *The Age* as follows:

Mr Downer said he believed Australia could influence the regime as it had maintained diplomatic contact in recent years and had provided limited humanitarian aid, including a controversial program of human rights courses for civil servants.

'Australia is of interest because we have taken a different, a unique approach in dealing with Myanmar (Burma),' he said. 'So we have contacts with them in a way that people like the British and the Americans at the other extreme don't have. We are perceived to be a so-called Western country, albeit a regional country ... and I think that gives us a bit more leverage than would otherwise be the case.'¹⁴

Nevertheless, some Australian journalists were quick to criticise him over the trip. Journalists' scepticism was reflected in the main ABC radio report, entitled 'Alexander Downer Gains Little from Burmese Meeting'.¹⁵ It was stated more explicitly in Mark Baker's later report in *The Age*:

Mr Downer also remains unapologetic about the maverick diplomacy that brought him to Rangoon — the most senior Western official to sit down with the regime in several years — while other Western governments continue to hold the junta at arm's length.

He argues that a line should be drawn over Burma's brutal past and the role of those still in power. 'Going around blaming who's responsible for what's happened in the past, I can only say to you what's happened has happened, it can't be undone.

'Setting a commission of inquiry and pointing a finger at who's responsible for this isn't going to make any difference to history. We have to look to the future and hope that the future will be more productive than the past.

Small comfort for the Burmese, still stuck in the tyranny that is their past and present.'¹⁶

14 Mark Baker, 'Suu Kyi Talks on the Way, Downer Told', *The Age*, 3 October 2002. Available at www.theage.com.au/articles/2002/10/02/1033538672884.html.

15 See the transcript of Eleanor Hall's interview on *The World Today* at www.abc.net.au/worldtoday/stories/s692508.htm.

16 See the full text of Baker's article, 'Downer Faces Burma's Tyrants', *The Age*, 5 October 2002. Available at www.theage.com.au/articles/2002/10/04/1033538774051.html.

Alexander Downer was the first Australian Foreign Minister to meet Aung San Suu Kyi. (His predecessor, Gareth Evans, had wanted to visit Myanmar and meet her, but this had not proved possible.) The Downer–Suu Kyi meeting occurred at her University Avenue residence, with no other NLD representative present. As might be expected, they took different positions in a ‘vigorous’ discussion of Australia’s limited engagement, neither yielding to the other. Recalling their meeting much later, Downer was to describe Suu Kyi as ‘downright aggressive’.¹⁷

From Australia’s point of view — and especially from Alexander Downer’s point of view — ensuring that Australian journalists could cover his visit was important. But the regime was unbending on this: they declined to give any Australian journalists a press visa, although one Australian journalist Mark Baker, who wrote for *The Age* and *The Sydney Morning Herald*, applied for a tourist visa and timed his travel so that he stayed for a period that overlapped with Downer. The Australian Embassy organised a press conference in the embassy at the end of the Downer visit, and although only certain Yangon-based journalists were permitted (by the regime) to attend, it was a relatively routine affair. Alexander Downer might have been concerned that a press conference held under the military regime’s censorship would not be satisfactory, so he also gave a press conference about his visit to Myanmar when he arrived in Bangkok later the same day.

Overall, Downer’s visit was publicly ‘successful’ — he was able to have substantive meetings with all those he wished to meet, and was able to get a good understanding of the main issues of the day — but it was not spectacularly so. In his own media release at the end of the visit, Downer said:

At each of the meetings with Burmese leaders, I reinforced the need for early progress with the political reconciliation process and raised the consequences of delays in beginning substantive dialogue with Aung San Suu Kyi. Australia has welcomed the confidence-building process between the two parties which began in October 2000, but we believe that now is the time to begin the dialogue on issues such as constitutional reform.¹⁸

17 Article on ‘Aung San Suu Kyi’ in *The Advertiser* (Adelaide), May 2012.

18 Media Release, ‘Burma Visit’, 3 October 2002. See foreignminister.gov.au/releases/2002/fa144_02.html.

A dialogue on constitutional reform was, of course, impossible to pursue at that time. The military regime finalised its own draft constitution in 2006; it was submitted to a national referendum in May 2008, and enacted in March 2011. International lawyers from Australia conducted workshops on constitutional reform with their Myanmar counterparts in 2013–14 after reforms were begun.

Other Australian engagement programs

Alexander Downer was behind another important assistance initiative launched by Australia during this time, which proceeded when a satisfactory collaborative program design was arrived at with in principle support from the leading opposition party: a collaborative agricultural research program with technocratic arms of the Myanmar Government, to be conducted by the Australian Centre for International Agricultural Research (ACIAR). One unusual aspect of this program is that we were able to consult Aung San Suu Kyi as de facto Leader of the Opposition, as she happened to be at liberty when the ACIAR Program Manager was visiting, prior to finalising the design of the program. We informed the Ministry of Agriculture that we were doing this and they expressed no objection. Indeed, they might have even been pleased to get backing from Suu Kyi. (When Suu Kyi was able to travel around the country for the first time in many years in 2002–03, the first government project she visited was an irrigation project sponsored by the Ministry of Agriculture and Irrigation.) Aung San Suu Kyi saw no problem with this ACIAR program, provided that it was focused on the benefits it would bring to ordinary farmers, which was precisely the intention of the program anyway. However, it also involved strengthening the capacity of the Myanmar Government — in this case, the Myanmar Agriculture Service — which was something that other donors were still cautious about at that time.¹⁹

A second ACIAR project, providing technical assistance for the control of Newcastle disease in village chicken production systems, was launched in early 2003. The results of this project were very encouraging. The project report described the outcomes in the following terms:

19 See the ACIAR Press Release, 'Australia's first project in Burma', 9 April 2003, at aciar.gov.au/node/10357.

The capacity impacts of this project were remarkable, with training provided to local scientists in epidemiology, pathology, vaccine production, extension methods, and molecular assays ... Poor farmers were the direct beneficiaries of this project — by improving the survival rate of young birds, more were available for sale at the markets and for consumption in the village households.²⁰

Another project investigated pests in dryland agricultural crops.²¹

These initial agricultural research capacity building projects demonstrated that this could be a fruitful way of working with the technocratic arms of the Myanmar Government. Unfortunately, the 30 May 2003 Depayin incident, involving an attack on Aung San Suu Kyi's motorcade in Central Myanmar, led to the Australian Government suspending other ACIAR collaborative research proposals in Myanmar. The projects that had already started were allowed to be completed, but with slight delays.

There was no 'funeral service' for Australia's limited engagement policy with Myanmar. The human rights initiative, whose expansion into 2003 had been planned, was eventually suspended in response to the further detention of Daw Aung San Suu Kyi from June 2003 (which would last another seven years). I do not know whether Alexander Downer has any regrets over his Burma initiatives, but I am not aware of any public statement by him to this effect. I have not heard any objective criticisms of the human rights workshops after the event from other quarters. In Myanmar, Australia's readiness to undertake such initiatives is still recalled very positively more than a decade later.²²

If there is any lasting 'legacy' from any of these initiatives, it could arguably be in the establishment — in the first term of the new government in 2011 — of a Myanmar National Human Rights Commission, including among its members several 'graduates' from the 2000–02 program, as well as the ongoing transnational crime capacity-

20 See the ACIAR project summary at aciar.gov.au/project/AH/2002/042.

21 See Heather Morris and D. F. Waterhouse, *The Distribution and Importance of Arthropod Pests and Weeds of Agriculture in Myanmar*, Canberra: ACIAR. Available at aciar.gov.au/files/node/2145/the_distribution_and_importance_of_arthropod_pests_48147.pdf.

22 In September/October 2012, the author was a member of an Australian team assessing the scope for new human rights capacity building in Myanmar which met many Myanmar participants in the original 2000–03 program, which they still praised.

building programs. (It is no accident that the Myanmar police officer most closely involved in international cooperation programs around this time, who was intimately associated with the Australian human rights workshops, Colonel Sit Aye, became international legal advisor to President Thein Sein in 2012.) Agricultural research collaboration on selected projects with different Myanmar Government research establishments aimed at improving productivity and grass-roots outreach continues to this day.

Some opportunistic actions for increasing engagement

Occasionally, the Australian Embassy had opportunities to encourage further international engagement by the military regime, either to 'fill gaps' in Myanmar's compliance with international norms, or to press the regime into 'normalising' Myanmar's international policies, including adhering to the International Covenant on Civil and Political Rights. Although we were told by the Ministry of Home Affairs in 2001 that a working group had been set up to consider the question of Myanmar adhering to the International Covenant on Civil and Political Rights, we did not hear the outcome of this work before the suspension of Australian human rights workshops in 2003. Myanmar has still not signed and ratified this convention more than 10 years later.

Compliance with universal international arms control agreements was another obvious area to try to seek more conformity with international norms. Any improvement in Myanmar's conformity with such instruments would contribute to regional security. By 2000, Myanmar was already participating in the ASEAN Regional Forum, which undertook a range of regional security confidence-building measures.²³ Thus we encouraged Myanmar to adhere to the International Landmines Convention, in view of evidence of the widespread use of landmines in Myanmar. The Myanmar Government never agreed to take this step, which would have (by design) constrained the Burmese

23 One area of ASEAN Regional Forum activity where Myanmar was slow to adopt a proactive position was the desirability of issuing a regular comprehensive statement of defence policy and weapons holdings.

army's use of landmines. But they did allow the ICRC to conduct a program to treat civilians with landmine injuries, and allowed the Mines Action Group to carry out an Australian Government-funded 'landmines awareness' education program in 2002.

We also encouraged the regime to allow Amnesty International to visit Myanmar and interview prisoners of conscience. Amnesty International's highly effective mobilisation of communities around the world to campaign for the release of political prisoners received enormous support around Australia. (Even the Amnesty International group in my own home town of Kiama, NSW, was lobbying for the release of Burmese prisoners of conscience.) At that time, Amnesty International's Bangkok Office was actively monitoring the situation of political prisoners, who were already being visited by the ICRC. We were told by Donna Guest from the Amnesty International Bangkok Office that they would be prepared to visit Myanmar for the first time, if invited and given access to prisoners. Donna Guest visited Myanmar in 2002 and 2003.²⁴

We also urged Myanmar to consider signing the Comprehensive Test Ban Treaty, to reinforce their commitment under the Nuclear Non-Proliferation Treaty not to develop nuclear arms. They never did this, although they continued to comply with International Atomic Energy Agency safeguards procedures. Myanmar signed the Nuclear Non-Proliferation Treaty Additional Protocol in 2013, but has yet to ratify the instrument. Myanmar has signed, but not ratified, the Comprehensive Nuclear Test Ban Treaty.

At a time when climate change was at the forefront of international agendas, but the environment was not a high priority in Myanmar, the Australian Embassy encouraged Myanmar to follow what was happening in international climate change developments. We did this by taking advantage of a private visit to Myanmar by a senior officer from the Australian Department of the Environment, arranging for him to brief Myanmar Government officials on international climate change developments. It was relatively easy to do this through the Ministry of Foreign Affairs, which coincidentally had formal responsibility for

24 Amnesty International, 'Media Report on First Visit to Myanmar'. See www.asiantribune.com/news/2003/02/10/amnesty-internationalits-first-myanmar-visit.

climate change issues. The briefing was well attended, but it would be another 10 years before Myanmar had a Ministry for the Environment (under President Thein Sein).

The Ministry of Foreign Affairs was also interested to find out about the operations of the Asia-Pacific Economic Cooperation (APEC) organisation. Although there was little prospect then of Myanmar becoming a member, we saw no problem with providing them with information about this Australian initiative, which we did each time APEC met. Myanmar is still not a member of APEC, but it did host the East Asian Summit in 2014.

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