

Australia: A constitution lacking human rights guarantees is nothing to celebrate

Human rights protection in Australia largely remains subject to an outdated British-Australian "gentlemen's agreement" that international standards do not need to be enshrined in law, Amnesty International said today one hundred years after the British House of Commons passed the Australian Constitution.

"In human rights terms, there is nothing to celebrate about the Australian Constitution. When passed, it deliberately excluded Asians on racist grounds and ignored even the existence of Aborigines. Today the Constitution still lacks fundamental rights and freedoms," the human rights organization added.

"Australia enters its second centenary of federation without having cleared its record since 1900. It still denies certain foreigners - notably asylum-seekers who are often from Asia - the rights they enjoy under international standards. Aborigines continue to wait for justice after suffering race discrimination linked to high levels of deaths in custody and abuse under past 'stolen children' policies."

While Britain is moving closer to the international human rights framework, Australia has withdrawn from active human rights diplomacy and this year even threatened to reduce its cooperation with United Nations human rights bodies.

Despite Australia's impressive record of ratifying international human rights treaties, the government has shown persistent indifference - or indignation - about any criticism by UN bodies reviewing treaty implementation. On 21 July 2000, the (UN) Human Rights Committee is the next in a series of four international bodies to review Australia's record this year.

In a country which considers its human rights record as "second to none";

- thousands of asylum-seekers are held in arbitrary detention in remote and isolated locations;
- no court is allowed to release anyone in immigration detention;
- the Ombudsman and national Human Rights Commission are prohibited from initiating contact with alleged victims of human rights violations and others held in immigration detention.

Amnesty International believes that Australian politicians celebrating in London this week should acknowledge the enormous backlog of unresolved human rights issues to be addressed after 100 years of nation-building.

"To clear the ground for the next Australian century, Australia must seriously tackle its past and present treatment of Aborigines and other vulnerable minorities, such as boat people and asylum-seekers," Amnesty International said.

Background

Australia presided over the adoption by the United Nations of the Universal Declaration of Human Rights in 1948. It participated prominently during the Cold War years in the creation of international treaties and other standards, but rarely formally incorporated these in domestic legislation.

With a population very conscious of human rights, Australian governments spend millions of dollars each year on inquiries into alleged human rights violations, but only selectively implement the resulting recommendations.

In March 2000, after a United Nations human rights treaty committee concluded that Australia had breached its obligations, the government threatened to reduce cooperation with the entire UN system. In an effort to discredit the committee's findings, the government suggested that committee members from human rights violating countries were not in a position to criticize Australia's record.

The government regularly professes compliance with the UN Refugee Convention yet routinely ignores guidelines issued by the UN High Commissioner for Refugees on detention of asylum-seekers. The UN Committee against Torture - due to review Australia's record in November - has twice seen Australia move to deport asylum-seekers whom the committee had requested should remain in Australia pending investigation of their cases.

The Australian government's current selectivity in the application of human rights standards is of increasing concern to Amnesty International. The organization is calling on the government to seriously address the gaps in its human rights agenda to bring the country back to the standard previous governments worked so hard to achieve.

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